

Committee Room,
Austin, Texas, October 23, 1936.
Hon. Coke Stevenson, Speaker of the
House of Representatives.

Sir: Your Committee on Engrossed
Bills, to whom was referred

H. B. No. 82, A bill to be entitled
"An Act to amend Article 1813 of
the Revised Civil Statutes of 1925 so
as to provide for the appointment of
a Special Commissioner to serve in
the place of any member of a Court
of Civil Appeals, who shall be dis-
abled by illness, or otherwise, and
whose disability shall be certified to
the Governor by the Chief Justice, or
any two members, of a Court of Civil
Appeals; providing for the compen-
sation of such Commissioner; and
providing for an emergency."

Has carefully compared same and
finds it correctly engrossed.

HODGES, Chairman.

FIFTEENTH DAY

(Monday, October 26, 1936.)

The House met at 10:00 o'clock a.
m., pursuant to adjournment, and
was called to order by Speaker
Stevenson.

The roll of the House was called
and the following Members were pres-
ent:

Mr. Speaker	Crossley
Adamson	Daniel
Adkins	Davis
Aikin	Davison of Fisher
Alexander	Davisson
Alsup	of Eastland
Ash	Dickison
Atchison	Dunagan
Bergman	Dunlap of Hays
Bradbury	Dunlap of Kleberg
Bradford	Duvall
Bridgers	Dwyer
Broadfoot	England
Burton	Fain
Butler of Brazos	Farmer
Butler of Karnes	Fisher
Cagle	Ford
Caldwell	Fox
Calvert	Frazer
Canon	Fuchs
Celaya	Gibson
Collins	Glass
Colson	Good
Cooper	Graves
Cowley	Gray
Craddock	Greathouse

Hankamer	Morris
Hanna	Morrison
Hardin	Morse
Harper	Newton
Harris of Archer	Nicholson
Harris of Dallas	Olsen
Hartzog	Patterson
Head	Payne
Herzik	Petsch
Hill	Pope
Hodges	Quinn
Hofheinz	Reader
Holland	Reed of Bowie
Hoskins	Reed of Dallas
Howard	Riddle
Huddleston	Roach of Angelina
Hunt	Roach of Hunt
Hunter	Roark
Jackson	Roberts
James	Rogers
Jefferson	Russell
Jones of Atascosa	Rutta
Jones of Falls	Scarborough
Jones of Shelby	Sessions
Jones of Wise	Settle
Keefe	Smith
King	Spears
Knetsch	Stanfield
Lange	Steward
Lanning	Stinson
Latham	Stovall
Leath	Tarwater
Lemens	Tennyson
Leonard	Thornton
Lindsey	Tillery
Lotief	Venable
Lucas	Waggoner
Luker	Walker
Mauritz	Wells
McCalla	Westfall
McConnell	Wood of Harrison
McFarland	Wood of Montague
McKee	Worley
McKinney	Young
Moffett	Youngblood
Moore	

Absent—Excused

Bourne	Padgett
Broyles	Palmer
Colquitt	Roane
Hyder	Shofner

A quorum was announced present.

Rev. George W. Coltrin, Chaplain,
offered the following invocation:

"Lord, as we enter upon the clos-
ing days of this session may clear
understanding open to us right paths,
may courage strengthen us, and may
conscience reveal Thy will in all our
ways. In Christ's name. Amen."

LEAVES OF ABSENCE GRANTED

The following Members were granted leaves of absence on account of important business:

Mr. Shofner for today, on motion of Mr. Tennyson.

Mr. Roane for today, on motion of Mr. Thornton.

The following Members were granted leaves of absence on account of illness:

Mr. Palmer for today, on motion of Mr. Jones of Falls.

Mr. Colquitt for today, on motion of Mr. Collins.

Mr. Bourne for today on account of illness of his family, on motion of Mr. Aikin.

Mr. Hyder for today, on motion of Mr. Dunagan.

Mr. Broyles for today on account of a death in his family, on motion of Mr. Roach of Angelina.

HOUSE BILL ON FIRST
READING

The following House bill, introduced today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

By Mr. Dwyer:

H. B. No. 86, A bill to be entitled "An Act to amend Article 2951, Title 50, Revised Civil Statutes, 1925, providing for the calling of elections of officials therein and the appointment of election officers to hold such election unless the method is prescribed by the City Charter, providing that all election judges and clerks shall be selected as near as possible from different political parties or factions of the same party of said city, and declaring an emergency."

Referred to Committee on Municipal and Private Corporations.

Mr. Reader raised a point of order on further consideration of House Bill No. 86, on the ground that the subject matter contained in the bill has not been submitted by the Governor.

The Speaker sustained the point of order.

EXPRESSING APPRECIATION TO
MEMBERS OF THE HOUSE

The Speaker laid before the House and had read the following communication:

610 West 24th,
Austin, Texas, Oct. 25, 1936.

Members of the 44th Legislature
House of Representatives, Austin,
Texas.

Members of the House:

I wish to express my gratitude and appreciation for the kindness you have shown my family and me during my recent illness, and for the beautiful basket of flowers that were so graciously sent.

Sincerely,

SECHRIST BERGMAN.

BILL AND RESOLUTION SIGNED
BY THE SPEAKER

The Speaker signed, in the presence of the House after giving due notice thereof and their captions had been read severally, the following enrolled bill and resolution:

H. C. R. No. 22, Recalling House Bill No. 3 from the Senate.

H. B. No. 54, "An Act to amend Sections 6, 9, 10, 11, 13 and 17 of Article No. 6243a, Title 109, page 1565, Chapter 387, Section 1, Acts of 1935, being House Bill No. 122, passed by the 44th Legislature, First Called Session, relating to eligibility to participate in Pension Fund; extending and providing the time of making application for membership and participation therein; providing the amount of pension benefits to members of the Pension Fund and beneficiaries; providing a savings clause and a clause which repeals all Acts and laws heretofore made in conflict herewith including city ordinances; and declaring an emergency."

HOUSE BILL NO. 41 WITH
SENATE AMENDMENTS

Mr. Lotief called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 41, A bill to be entitled "An Act fixing the compensation of county commissioners in every county having a population of not less than 12,757 nor more than 12,759 inhabitants according to the last preceeding United States Census where the tax-

able values in said counties are not less than Five Million (\$5,000,000.00) Dollars nor more than Nine Million (\$9,000,000.00) Dollars; prescribing how the same shall be paid; repealing all laws in conflict herewith, and declaring an emergency."

The Speaker laid the bill before the House, with the Senate amendments.

On motion of Mr. Lotief, the House concurred in the Senate amendments by the following vote:

Yeas—113

Adamson	Hodges
Adkins	Holland
Aikin	Hoskins
Alexander	Huddleston
Alsup	Hunt
Ash	Hunter
Atchison	Jackson
Bergman	James
Bradbury	Jefferson
Bridgers	Jones of Atascosa
Broadfoot	Jones of Falls
Burton	Jones of Shelby
Butler of Brazos	Jones of Wise
Butler of Karnes	King
Caldwell	Knetsch
Calvert	Lange
Canon	Lanning
Collins	Leonard
Cooper	Lindsey
Craddock	Lotief
Crossley	Lucas
Daniel	Mauritz
Davis	McCalla
Davison	McConnell
of Eastland	McFarland
Dunagan	McKee
Dunlap of Hays	McKinney
Dunlap of Kleberg	Moffett
Dwyer	Moore
England	Morris
Fain	Morrison
Farmer	Morse
Fisher	Newton
Frazer	Olsen
Fuchs	Payne
Gibson	Pope
Glass	Quinn
Good	Reader
Graves	Reed of Bowie
Gray	Reed of Dallas
Hankamer	Roach of Angelina
Hanna	Roark
Hardin	Roberts
Harper	Russell
Harris of Archer	Rutta
Harris of Dallas	Sessions
Herzik	Settle
Hill	Smith

Stanfield	Waggoner
Steward	Walker
Stinson	Wells
Stovall	Westfall
Tarwater	Wood of Harrison
Tennyson	Wood of Montague
Thornton	Worley
Tillery	Young
Venable	Youngblood

Nay—1

Bradford

Present—Not Voting

Davison of Fisher Luker

Absent

Cagle	Howard
Celaya	Keefe
Colquitt	Latham
Colson	Leath
Cowley	Lemens
Dickison	Nicholson
Duvall	Patterson
Ford	Petsch
Fox	Riddle
Greathouse	Roach of Hunt
Hartzog	Rogers
Head	Scarborough
Hofheinz	Spears

Absent—Excused

Bourne	Palmer
Broyles	Roane
Hyder	Shofner
Padgett	

RELATIVE TO RESOLUTION PERIOD

Mr. Reed of Bowie moved that the House dispense with the consideration of resolutions at this time.

The motion was lost.

SPECIAL COMMITTEE APPOINTED

The Speaker announced the appointment of the following committee, in accordance with resolution heretofore adopted, to make certain investigation in regard to the overcrowded conditions in the Capitol Building and in State owned office buildings:

Messrs. Worley, Graves and McFarland.

TO GRANT PERMISSION TO SUE THE STATE

Mr. Rutta offered the following resolution:

H. C. R. No. 23, To grant A. J. Lass permission to sue the State.

Whereas, at about 8 o'clock p. m. on the 17th day of May, A. D. 1935, A. J. Laas was driving in his automobile along State Highway No. 36 in Austin County, Texas, proceeding in a northerly direction from the town of Sealy towards the town of Bellville in said county, at a point approximately four miles from said town of Sealy, at which point on said State Highway No. 36 his automobile was wrecked and rendered totally worthless and wherein the said A. J. Laas sustained serious and permanent injuries to his person; and

Whereas, The said A. J. Laas claims that said damages to his automobile and the injuries so suffered by his person were directly and proximately caused by the negligence of the State Highway Department, in that said Highway Department maintained and/or permitted to be there maintained, a certain blind and narrow culvert, which said culvert was narrower than the main traveled portion of roadbed of said Highway, and which had no adequate sides or approaches to indicate its existence, and that no sign or signs to warn the approaching automobile of said dangerous, blind and narrow culvert were maintained, thereby causing his said automobile to miss said culvert and plunge into a deep drain from said culvert just to the east side of said highway and the said culvert, causing the damages and injuries aforesaid, and

Whereas, The said A. J. Laas claims that the State of Texas and its Highway Department are liable for the said damages as suffered and the said injuries so inflicted; Now, therefore, be it

Resolved, by the House of Representatives, the Senate concurring, That the said A. J. Laas be hereby granted permission to bring suit against the State of Texas and the State Highway Department and the State Highway Commission in a Court of competent jurisdiction in Austin County, Texas, to ascertain and fix the amount or amounts, if any, the State Highway Commission and the State of Texas is indebted to the said A. J. Laas on account of the damages and injuries so alleged to have been suffered by him and inflicted upon him. And in case such suit is filed, service of citation shall be had upon the Governor of the State of Texas, the Chairman of the

Highway Commission and the Attorney General of Texas, and that said suit may be prosecuted regardless of any claim of limitation upon the part of the defendants therein, and that either party hereto shall have the right of appeal without the execution of a bond and any judgment that may be finally established against the State of Texas and the Highway Commission of Texas in said suit shall be a liquidated debt and shall be paid by the Highway Commission of Texas out of the funds in its hands and under its control.

The resolution was read second time.

On motion of Mr. Alsup, the resolution was referred to the Committee on State Affairs.

TO AUTHORIZE THE USE OF CERTAIN APPROPRIATION

Mr. Leonard offered the following resolution:

H. C. R. No. 24, To authorize the use of certain appropriation heretofore made.

Whereas, House Bill No. 780, Regular Session, Forty-fourth Legislature, being the Departmental Appropriation Bill, contained an item of \$10,000 appropriated to the office of the Secretary of State for the purpose of defraying the expense of compiling, editing, indexing, binding and distributing current laws and Journals of the Forty-fourth Legislature; and

Whereas, Such appropriation was made for the first fiscal year of the current biennium; and

Whereas, It was the intention of the Legislature that the balance remaining from said appropriation should be available during the second year of the current biennium; now, therefore, be it

Resolved, By the House of Representatives, the Senate concurring, That this resolution be the authority for the State Comptroller and the State Treasurer to make available for the purposes set out in the original appropriation the amount remaining in said appropriation item on August 31, 1936, said remaining amount to be available for said purposes until August 31, 1937.

The resolution was read second time, and was adopted.

PROVIDING FOR PLACING OF CERTAIN PAINTING IN CAPITOL BUILDING

Mr. Crossley offered the following resolution:

H. C. R. No. 25, Granting Charles Berkley Normann permission to place his picture of the original signing of the Declaration of Independence temporarily in the State Capitol and authorizing the Board of Control to select a popular place in the building for it to hang.

Whereas, During the century that has elapsed since the establishment of the Republic of Texas, artists have depicted on canvas and in marble and bronze many of the stirring scenes of the heroic period of Texas history. Almost without exception, they have chosen to commemorate military valor. For some reason—perhaps because of the difficulty of finding necessary data—the first signing of the Declaration of Independence in the gunshop at Washington-on-the-Brazos has been neglected. Not until the Centennial Year was such a picture produced; and

Whereas, In 1934 Mr. and Mrs. Charles Berkley Normann of Liberty Hill, Williamson County, Texas, determined to depict this dramatic scene as faithfully as possible. After two years of painstaking research, their painting was completed; and

Whereas, This picture is now on exhibit in the Hall of State at the Texas Centennial in Dallas; and

Whereas, After the Centennial closes the artists are desirous of leaving this wonderful painting in the State Capitol until March 1, 1937, so the many visitors of the Capitol may have a chance to see the only picture ever painted of the original signing of the Declaration of Independence; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That Mr. Charles Berkley Normann be permitted to place this picture temporarily in the Capitol at a popular place selected by the Board of Control.

CROSSLEY,
NEWTON,
FOX.

The resolution was read second time, and was adopted.

GRANTING USE OF CERTAIN STATE HIGHWAY EQUIPMENT

Mr. Davisson of Eastland offered the following resolution:

H. C. R. No. 26, Granting use of certain State Highway equipment.

Whereas, The City of Eastland has available funds and materials to repair a street; and

Whereas, The City of Eastland does not have sufficient equipment to do this work; and

Whereas, The State Highway Department does have a County Equipment Yard there;

Whereas, The State Highway Department does have this equipment there and it is not in use;

Whereas, The State Highway Department is willing to loan this equipment to the said city for this purpose; now, therefore, be it

Resolved by the House of Representatives, with the Senate concurring, That the Texas State Highway Department be, and same is hereby authorized and requested to loan this equipment to the City of Eastland for this purpose.

The resolution was read second time, and was adopted.

MESSAGE FROM THE SENATE

Austin, Texas, October 23, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate, to inform the House, the Senate has concurred in House amendments to Senate Bill No. 26, by the following vote:

Yeas, 23, nays 0.

Passed

H. B. No. 51, A bill to be entitled "An Act to provide for the assumption of bonded indebtedness by districts whose boundaries have been extended or enlarged; prescribing the method of holding elections on the question of the assumption of such indebtedness and the levying and collecting of a tax to pay the principal and interest thereof, etc., and declaring an emergency."

(With amendments.)

H. B. No. 65, A bill to be entitled "An Act providing for the amount that may be allowed by County Boards of Trustees to the County

Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special in conflict herewith; and declaring an emergency."

(With amendments.)

S. B. No. 32, A bill to be entitled "An Act to authorize the counties, cities, towns, independent school districts, common school districts, water improvement districts, water control and improvement districts, navigation districts, road districts, etc., and declaring an emergency."

S. B. No. 33, A bill to be entitled "An Act to provide for the cession by the State of Texas to the United States of America of all right, title, and interest which the State of Texas may have in and to certain lands in Cameron and Hidalgo Counties, comprising the bed and banks of the Rio Grande, and to certain lands in Cameron, Hidalgo and Willacy Counties, comprising the bed and banks of the Arroyo Colorado; retaining jurisdiction as to certain of such lands in the State of Texas for certain purposes; reserving the rights of the State of Texas, and residents and citizens thereof, to waters of the Rio Grande and the Arroyo Colorado, and in the use thereof, and in the access thereto; and declaring an emergency."

S. B. No. 12, A bill to be entitled "An Act defining certain words, terms and phrases; fixing venue for injunctions to restrain State officials from the performance of their duties, in Travis County, Texas; providing that before any restraining order or injunction shall issue to restrain the collection of certain special taxes, fees and penalties, the applicant therefor shall pay into the suspense account of the Treasurer all taxes, fees and penalties then due and thereafter becoming due during the pendency of said injunction, etc.; and declaring an emergency."

Respectfully,

BOB BARKER,
Secretary of the Senate.

BILL ORDERED NOT PRINTED

On motion of Mr. Westfall, Senate Bill No. 27, was ordered not printed.

REQUESTING REPORT OF CERTAIN COMMITTEE

Mr. Lotief offered the following resolution:

Whereas, There is now in existence a committee appointed pursuant to House Simple Resolution No. 126, Regular Session, Forty-fourth Legislature, and extended by House Simple Resolution No. 35, First Called Session, Forty-fourth Legislature; and

Whereas, Said committee has now been in existence for more than seventeen months; and

Whereas, Said House Simple Resolution No. 35 provides that this committee shall complete its labor not later than April 1, 1936; now, therefore, be it

Resolved by the House of Representatives, That said committee be instructed to make its final report to the House not later than Tuesday morning, October 27, 1936, and that the committee be discharged.

The resolution was read second time, and was adopted.

HOUSE BILL NO. 51 WITH SENATE AMENDMENTS

Mr. Tennyson called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 51, A bill to be entitled "An Act to provide for the assumption of bonded indebtedness by districts whose boundaries have been extended or enlarged; prescribing the method of holding elections on the question of the assumption of such indebtedness and the levying and collecting of a tax to pay the principal and interest thereof; imposing the duty on the governing board of any such district to levy and collect such taxes, validating assumption elections heretofore held in instances wherein said elections were carried by a majority vote; declaring such indebtedness to be the indebtedness of such district as enlarged or extended; imposing the duty on the governing board of any such district to levy and collect taxes to pay the principal and interest thereof; making applicable to such indebtedness the law authorizing school districts to issue refunding bonds, validating refunding procedure heretofore attempted by such districts, providing that the validating provision of this Act shall not apply to

assumption elections or to refunding proceedings which have been held invalid in judgments by courts of competent jurisdiction or where litigation is pending at the time this Act becomes effective; providing that a successor district shall be liable for the indebtedness of its predecessor district in instances wherein the boundaries of said districts are coterminous without the necessity of an election of any character; imposing the duty on the governing board of such district to levy and collect taxes to pay principal and interest of such indebtedness; validating the attempted issuance of refunding bonds heretofore authorized by such districts; and declaring an emergency."

The Speaker laid the bill before the House, with the Senate amendments.

On motion of Mr. Tennyson, the House concurred in the Senate amendments by the following vote:

Yeas—118

Adamson	Graves
Adkins	Gray
Aikin	Greathouse
Alexander	Hankamer
Alsup	Hanna
Ash	Hardin
Atchison	Harper
Bergman	Harris of Archer
Bradbury	Harris of Dallas
Bradford	Hartzog
Bridgers	Herzik
Broadfoot	Hill
Burton	Hodges
Butler of Brazos	Hofheinz
Butler of Karnes	Hoskins
Cagle	Howard
Caldwell	Huddleston
Calvert	Hunt
Canon	Hunter
Collins	Jackson
Daniel	James
Davis	Jefferson
Davison of Fisher	Jones of Atascosa
Dunagan	Jones of Falls
Dunlap of Hays	Jones of Shelby
Dwyer	Jones of Wise
England	King
Fain	Knetsch
Farmer	Lange
Fisher	Lanning
Ford	Latham
Fox	Lemens
Frazer	Leonard
Fuchs	Lindsey
Gibson	Lotief
Glass	Lucas
Good	Mauritz

McCalla	Russell
McConnell	Rutta
McFarland	Sessions
McKee	Settle
McKinney	Smith
Moffett	Spears
Moore	Stanfield
Morris	Steward
Morrison	Stovall
Morse	Tarwater
Newton	Tennyson
Nicholson	Thornton
Olsen	Tillery
Patterson	Venable
Payne	Wells
Pope	Westfall
Reader	Waggoner
Reed of Bowie	Walker
Reed of Dallas	Wood of Harrison
Roach of Hunt	Wood of Montague
Roark	Worley
Roberts	Youngblood

Nays—3

Luker
Rogers

Young

Absent

Celaya	Duvall
Colquitt	Head
Colson	Holland
Cooper	Keefe
Cowley	Leath
Craddock	Petsch
Crossley	Quinn
Davisson	Riddle
of Eastland	Roach of Angelina
Dickison	Scarborough
Dunlap of Kleberg	Stinson

Absent—Excused

Bourne	Palmer
Broyles	Roane
Hyder	Shofner
Padgett	

HOUSE BILL NO. 65 WITH SENATE AMENDMENTS

Mr. Alsup called up from the Speaker's table, with Senate amendments, for consideration of the amendments,

H. B. No. 65, A bill to be entitled "An Act providing for the amount that may be allowed by County Boards of Trustees to the County Superintendents of Public Instruction for expenditures for office and traveling expenses in certain counties according to the last preceding Federal Census; repealing all laws and parts of laws, General or Special in

conflict herewith; and declaring an emergency."

The Speaker laid the bill before the House, with the Senate amendments.

Mr. Alsup moved that the House do not concur in the Senate amendments, and that a conference committee be requested to adjust the differences between the two houses on the bill.

The motion prevailed.

In accordance with the above action, the Speaker announced the appointment of the following Conference Committee: Mr. Alsup, Mr. Hunt, Mr. Harris of Archer, Mr. Jones of Shelby and Mr. Fox.

SENATE BILLS ON FIRST READING

The following Senate Bills, received from the Senate today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

S. B. No. 32, to the Committee on Public Lands and Buildings.

S. B. No. 33, to the Committee on Public Lands and Buildings.

S. B. No. 12, to the Committee on Judiciary.

RELATIVE TO SENATE BILL NO. 12

Mr. Pope raised a point of order, on further consideration of the Senate Bill No. 12 by the House, on the ground that the subject matter contained in the bill has not been submitted by the Governor.

The Speaker sustained the point of order.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills and resolutions:

S. B. No. 21, "An Act amending Sections 17 and 17-A of Chapter 126 of the Acts of the Regular Session of the Forty-fourth Legislature; and declaring an emergency."

S. B. No. 17, "An Act creating a special road law for Collin County, Texas, etc.; and declaring an emergency."

S. B. No. 16, "An Act ratifying, confirming and validating all acts of

county boards of trustees in laying out or attempting to establish, combine, abolish or change any independent or common school districts, and all elections held in any county in this State for the purpose of laying out, establishing, combining, abolishing or changing any such independent or common school districts under the provisions of Chapter 339, Acts of the Regular Session of the Forty-fourth Legislature 1935, or under Chapter 151, Acts of the Regular Session of the Forty-fourth Legislature, 1935; and declaring an emergency."

S. B. No. 26, "An Act relinquishing to the City of Port Arthur, Texas, all right and title and interest of the State of Texas in and to certain lands described in Section 1, H. B. No. 66, Chapter 22, Acts Fifth Called Session, Forty-first Legislature, and ratifying their validated patent issued by the State of Texas under and by virtue of said Act, and repealing Section 4a of said House Bill No. 66, and declaring an emergency."

S. B. No. 25, "An Act providing an open season for hunting wild quail in Hemphill and Lipscomb Counties; providing a penalty for killing any quail except during the open season herein provided; repealing all laws in conflict with this Act, and declaring an emergency."

S. B. No. 24, "An Act to validate all Consolidated Rural High School Districts created or attempted to be created by County Boards of Trustees, validating acts of County Boards of Trustees in creating or attempting to create Consolidated Rural High School Districts out of a district or districts that had been theretofore a Consolidated Common School District or districts, validating all elections, tax assessments, assessment rolls, and tax rolls, and the levy of taxes by said school districts, validating all proceedings had in the issuance of bonds and the levying of taxes therefor, validating bonds heretofore authorized or voted but not yet issued, providing for certain exceptions where litigation is pending, and declaring an emergency."

S. B. No. 30, "An Act to validate all proceedings, orders, resolutions, and city ordinances and amendments to charters annexing adjacent territory to, etc., and declaring an emergency."

S. B. No. 14, "An Act amending Section 1 of Chapter 4 of the Acts of

the Second Called Session of the Forty-third Legislature, 1934, so as to make said Chapter applicable to all water control and improvement districts in this State; and declaring an emergency."

S. C. R. No. 7, Concerning market price of cotton.

AUTHORIZING PAYMENT OF CERTAIN WARRANTS

The Speaker laid before the House for consideration at this time, the following resolution:

S. C. R. No. 12, Authorizing payment of certain warrants.

A resolution relating to, and providing for, the payment of warrants and vouchers issued by towns and cities in the State of Texas for funds received and used by such towns and cities in a sum not to exceed Ten Thousand (\$10,000.00) Dollars prior to June 1, 1932, and applying to such warrants and vouchers issued as renewals of such original warrants and vouchers; now, therefore, be it

Resolved, By the Legislature of the State of Texas, That the towns and cities, organized under and governed by the General Laws of the State of Texas, may renew, extend and pay warrants and vouchers executed and delivered for the purpose of securing funds and for the purpose of borrowing funds for the use of such towns and cities prior to June 1, 1932, and all extensions and renewals thereof. Such warrants and vouchers may be so issued to bear interest at the rate of not to exceed six (6%) per cent per annum and may be so issued without the necessity of the approval thereof by the Attorney General and without the necessity of a registration thereof by the Comptroller, and may be made payable within one year from date of the issuance or more than one year, taxes may be levied and used to provide for the payment thereof; and, be it, further

Resolved, That it is not the purpose or intention of the law to defeat the payment of just and proper obligations of the character herein stated and that where such funds have been borrowed or secured in good faith by such a town or city, and such town or city does not want to repudiate but wants to pay same, that the officials of such town or city shall not be liable for the payment of such ob-

ligations which were incurred in good faith by such town or city.

The resolution was read second time.

Mr. Hankamer offered the following amendment to the resolution:

Amend Senate Concurrent Resolution No. 12, by adding at the end of the first sentence of the first paragraph of the resolving clause the following: "; provided that the provisions hereof shall apply only where such funds received and borrowed and used by such towns and cities prior to June 1, 1932, do not exceed the total sum of Ten Thousand (\$10,000.00) Dollars."

The amendment was adopted.

The resolution was then adopted by the following vote:

Yeas—121

Adamson	Harper
Adkins	Harris of Archer
Aikin	Harris of Dallas
Alexander	Hartzog
Alsup	Head
Ash	Herzik
Atchison	Hill
Bradbury	Hodges
Bradford	Hofheinz
Bridgers	Holland
Broadfoot	Hoskins
Burton	Howard
Butler of Karnes	Huddleston
Cagle	Hunt
Canon	Hunter
Collins	Jackson
Craddock	James
Crossley	Jones of Atascosa
Davis	Jones of Falls
Davisson	Jones of Shelby
of Eastland	Jones of Wisc
Dickison	Keefe
Dunagan	King
Dunlap of Hays	Knetsch
Duvall	Lange
Dwyer	Lanning
England	Latham
Fain	Lemens
Farmer	Leonard
Fisher	Lotief
Ford	Lucas
Frazer	Luker
Fuchs	Mauritz
Gibson	McCalla
Glass	McConnell
Graves	McKee
Gray	McKinney
Greathouse	Moffett
Hankamer	Moore
Hanna	Morris
Hardin	Morrison

Morse	Smith
Newton	Spears
Nicholson	Stanfield
Olsen	Steward
Patterson	Stinson
Payne	Stovall
Pope	Tarwater
Quinn	Tennyson
Reader	Thornton
Reed of Bowie	Tillery
Reed of Dallas	Venable
Roach of Angelina	Waggoner
Roach of Hunt	Walker
Roark	Wells
Roberts	Westfall
Russell	Wood of Harrison
Rutta	Wood of Montague
Scarborough	Worley
Sessions	Young
Settle	Youngblood

Nays—1

Lindsey

Present—Not Voting

Davison of Fisher

Absent

Bergman	Dunlap of Kleberg
Butler of Brazos	Fox
Caldwell	Good
Calvert	Jefferson
Celaya	Leath
Colquitt	McFarland
Colson	Petsch
Cooper	Riddle
Cowley	Rogers
Daniel	

Absent—Excused

Bourne	Palmer
Broyles	Roane
Hyder	Shofner
Padgett	

MESSAGE FROM THE SENATE

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate, to inform the House, the Senate has passed the following:

S. B. No. 31, A bill to be entitled "An Act relating to drainage districts and providing for the leasing of lands owned by such districts for mineral development purposes and providing the manner in which any and all functions, powers and duties exercised by the commissioners of such drainage districts may be transferred

to, be exercised by and vest in the commissioners' court of the county within which such drainage districts are wholly situated; and declaring an emergency."

Respectfully,

BOB BARKER,
Secretary of the Senate.

TO GRANT PERMISSION TO SUE THE STATE

The Speaker laid before the House, for consideration at this time, the following resolution:

S. C. R. No. 10, To grant J. E. Thomson permission to sue the State.

Whereas, On the 10th day of January, 1933, State Highway Fund Treasury Warrant No. 104530 was issued to J. E. Thomson, account of P. G. Powell, in payment of sums due the said J. E. Thomson under and by virtue of a highway contract made by the State Highway Department; and

Whereas, The name of J. E. Thomson was endorsed on said warrant and same was duly paid; and

Whereas, The said J. E. Thomson now alleges and claims that he did not receive said warrant and that the endorsement of his name thereon was a forgery; and

Whereas, The said J. E. Thomson desires to file suit against all banks and persons handling said warrant, as well as the State of Texas and/or the Highway Department of the State of Texas; now, therefore, be it

Resolved, By the Senate of Texas, the House of Representatives concurring, That the said J. E. Thomson be, and he is hereby granted permission to bring suit against the State of Texas and/or the Highway Department of the State of Texas in any court of competent jurisdiction for recovery of any amount due him under and by virtue of State Highway Fund Treasury Warrant No. 104530, issued January 10, 1933, for the sum of Twelve Hundred Fifty Seven Dollars and Seventy-three Cents (\$1257.73); and, be it, further

Resolved, That such suit may be filed in any court of competent jurisdiction in the State of Texas at any time within two (2) years from the date this Act takes effect; and, be it, further

Resolved, That such suit upon said cause of action shall be tried and determined in the trial and appellate

courts, according to the same rules of law and procedure as to liability and defense that would be applicable if such suit were against an ordinary Texas corporation; and, be it further

Resolved, That process in such suit may be served upon the Governor of Texas and the Attorney General of Texas and any judgment which may be recovered by reason of the prosecution of this suit shall be payable out of the funds of the Highway Department of the State of Texas.

The resolution was read second time.

On motion of Mr. Alsup, the resolution was referred to the Committee on State Affairs.

CONCERNING THE RURAL ELECTRIFICATION ADMINISTRATION

The Speaker laid before the House, for consideration at this time, the following resolution:

S. C. R. No. 13, Relative to co-operation of certain State Departments with Rural Electrification Administration.

Whereas, The National Administration has made appropriations for and perfected a National set-up to administer the Rural Electrification Program, through which said Rural Electrification Administration proposes to cooperate with local organizations in aiding rural communities and residents in securing the benefits of rural electrification of farms and ranches, etc., the said Rural Electrification Administration cooperating with local existing agencies and others that may be established, private, municipal and corporate, making loans to said local organizations for the purpose of constructing transmission lines, the wiring of residences, barns and other out-houses, and for the purchase of electric appliances; and

Whereas, It is claimed by those in charge of this work that it will lead to a higher living standard among rural citizens and otherwise add to the comforts of life; and

Whereas, The said National Rural Electrification Administration, through its directing officials, has requested the cooperation of certain of the Texas State Departments in carrying out the program for the State of Texas; now, therefore, be it

Resolved, By the Senate of the State of Texas, the House of Representatives concurring, That it is the opinion of this body that the said several State Departments should cooperate with said Rural Electrification Administration; and, be it further

Resolved, That in conformity with this request the Texas Agricultural and Mechanical College, the State Department of Agriculture, the Department of Vocational Education and the State Planning Board, be, and are hereby authorized to both encourage and assist the said Rural Electrification Administration in its efforts to carry out this program in the State of Texas.

The resolution was read second time, and was adopted.

SENATE BILL NO. 3 ON PASSAGE TO THIRD READING

The Speaker laid before the House, as unfinished business, on its passage to third reading,

S. B. No. 3, A bill to be entitled "An Act validating all levies and assessments of ad valorem taxes heretofore made by independent school districts, etc."

The bill having been read second time, on last Wednesday, October 21.

Mr. Roane offered the following amendment to the bill:

Amend Senate Bill No. 3 by adding at end of Section 1, the following: "Provided, however, that the provisions of this bill shall apply to Rusk County only."

The amendment was adopted.

Mr. Graves offered the following amendment to the bill:

Amend Senate Bill No. 3, by substituting the word "voidable," for the word "void," wherever the same occurs both in the caption and the body of the bill

The amendment was adopted.

By unanimous consent of the House the caption of the bill was ordered amended to conform to all changes, and with the body of the bill.

Senate Bill No. 3 was then passed to third reading.

SENATE BILL NO. 3 ON THIRD READING

Mr. Wood of Harrison moved that the constitutional rule, requiring bills to be read on three several days, be

suspended, and that Senate Bill No. 3 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—118

Adamson	James
Adkins	Jefferson
Aikin	Jones of Atascosa
Alexander	Jones of Falls
Alsup	Jones of Shelby
Ash	Jones of Wise
Atchison	Keefe
Bradbury	King
Bradford	Knetsch
Bridgers	Lange
Broadfoot	Lanning
Burton	Latham
Butler of Karnes	Lemens
Cagle	Lotief
Caldwell	Lucas
Calvert	Mauritz
Canon	McCalla
Collins	McConnell
Cooper	McKee
Craddock	McKinney
Crossley	Moffett
Daniel	Moore
Davis	Morris
Davison of Fisher	Morrison
Davisson	Newton
of Eastland	Nicholson
Dickison	Olsen
Dunagan	Patterson
Dunlap of Hays	Payne
Dunlap of Kleberg	Pope
England	Quinn
Fain	Reed of Bowie
Farmer	Reed of Dallas
Fisher	Roach of Angelina
Ford	Roach of Hunt
Fuchs	Roark
Gibson	Roberts
Glass	Rogers
Graves	Russell
Gray	Rutta
Greathouse	Scarborough
Hankamer	Sessions
Hanna	Settle
Hardin	Smith
Harper	Spears
Harris of Dallas	Stanfield
Hartzog	Steward
Head	Stinson
Hill	Stovall
Hodges	Tarwater
Hofheinz	Tennyson
Holland	Thornton
Hoskins	Tillery
Huddleston	Venable
Hunt	Waggoner
Hunter	Walker
Jackson	Wells

Westfall
Wood of Harrison
Wood of Montague

Absent

Bergman	Herzik
Butler of Brazos	Howard
Celaya	Leath
Colquitt	Leonard
Colson	Lindsey
Cowley	Luker
Duvall	McFarland
Dwyer	Morse
Fox	Petsch
Frazer	Reader
Good	Riddle
Harris of Archer	Young

Absent—Excused

Bourne	Palmer
Broyles	Roane
Hyder	Shofner
Padgett	

The Speaker then laid Senate Bill No. 3 before the House on its third reading and final passage.

The bill was read third time, and was passed.

MESSAGE FROM THE SENATE

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate, to inform the House, that the Senate has granted the request of the House for a conference committee to adjust the differences between the two Houses on House Bill No. 65.

The following have been appointed on the part of the Senate:

Senators:

HILL,
BURNS,
BECK,
BLACKERT,
POAGE.

Respectfully,

BOB BARKER,
Secretary of the Senate.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 5

Mr. Davisson of Eastland called up for consideration at this time, the Conference Committee report on Senate Bill No. 5.

The report having been submitted to the House on last Thursday, Oc-

tober 22, same having been printed in the Journal on that day.

Mr. Davisson of Eastland moved that the report be adopted.

Mr. Russell moved that the report be not adopted.

(Pending consideration of the Conference Committee report, Mr. Worley occupied the Chair, temporarily.)

(Speaker in the Chair.)

HOUSE BILL ON FIRST READING

The following House bill, introduced today, (by unanimous consent) was laid before the House, read first time, and referred to the appropriate committee, as follows:

By Mr. Worley:

H. B. No. 87, A bill to be entitled "An Act to validate the organization and creation of all school districts, including common school districts, independent school districts, consolidated common school districts, all county line school districts, including county line common school districts, county line independent school districts, county line consolidated common school districts, county line consolidated independent school districts, rural high school districts, and all other school districts, whether created by General or Special Law or by the County Boards of Trustees; providing no transfer of territory is validated by the Act unless authorized by an affirmative vote of voters in such districts; validating the Acts of said County Boards of Trustees and Boards of Trustees of such districts; validating all proceedings and Acts of said Boards of Trustees; validating all bonds voted, authorized and/or now outstanding of said Districts; validating all tax levies made in behalf of said Districts; authorizing and empowering all school districts mentioned in this Act to levy, assess, and collect the same rate of taxes as is now being levied, assessed, and collected therein, and heretofore authorized or attempted to be authorized by any act, or acts of said Districts, or by any Act of the Legislature; making certain exemptions, and declaring an emergency."

Referred to the Committee on Education.

RECESS

On motion of Mr. Harris of Archer, the House at 12:10 o'clock p. m., took recess to 2:00 o'clock p. m., today.

AFTERNOON SESSION

The House met at 2:00 o'clock p. m., and was called to order by the Speaker.

SENATE BILL ON FIRST READING

The following Senate bill, received from the Senate today, was laid before the House, read first time, and referred to the appropriate committee, as follows:

S. B. No. 31, to the Committee on Public Lands and Buildings.

MESSAGE FROM THE SENATE

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House that the Senate has adopted the Conference Committee report on House Bill 8, by the following vote:

Yeas 23, Nays 6.

I am directed by the Senate to inform the House the Senate has refused to concur in House Amendments to Senate Bill No. 3, and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate:

Senators:

HILL,
BECK,
ISELL,
COTTEN,
SHIVERS.

Respectfully,

BOB BARKER,
Secretary of the Senate.

ADOPTION OF CONFERENCE COMMITTEE REPORT ON SENATE BILL NO. 5

The House resumed consideration of pending business, same being the Conference Committee report on Senate Bill No. 5, with motion by Mr. Davisson of Eastland that the report be adopted, and motion by Mr. Russell that the report be not adopted, pending.

Mr. Frazer moved the previous question on the pending motions, and motion was duly seconded.

Question recurring on the motion for the main question, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—74

Adkins	Jones of Wise
Alsup	Keefe
Ash	Knetsch
Bradford	Lindsey
Bridgers	Lotief
Broadfoot	Lucas
Cagle	Mauritz
Calvert	Moore
Colquitt	Morris
Cooper	Newton
Daniel	Nicholson
Davis	Olsen
Davison of Fisher	Payne
Dickison	Quinn
Dunagan	Reader
Dunlap of Hays	Reed of Bowie
Dunlap of Kleberg	Reed of Dallas
Farmer	Riddle
Fisher	Roach of Angelina
Frazer	Roark
Fuchs	Rutta
Glass	Sessions
Graves	Settle
Gray	Smith
Greathouse	Spears
Hanna	Steward
Hardin	Stinson
Harper	Stovall
Herzik	Tarwater
Hodges	Tillery
Hofheinz	Waggoner
Holland	Walker
Huddleston	Wells
Hunt	Westfall
James	Worley
Jones of Falls	Young
Jones of Shelby	Youngblood

Nays—36

Adamson	Latham
Aikin	Leath
Alexander	McCalla
Atchison	McKinney
Bradbury	Moffett
Burton	Morrison
Canon	Morse
Celaya	Patterson
Collins	Petsch
Craddock	Pope
Dwyer	Roach of Hunt
Fain	Russell
Fox	Scarborough
Hankamer	Tennyson
Hill	Thornton
Jackson	Venable
King	Wood of Harrison
Lanning	Wood of Montague

Absent

Bergman	Head
Butler of Brazos	Hoskins
Butler of Karnes	Howard
Caldwell	Hunter
Colson	Jefferson
Cowley	Jones of Atascosa
Crossley	Lange
Davison	Lemens
of Eastland	Leonard
Duvall	Luker
England	McConnell
Ford	McFarland
Gibson	McKee
Good	Roberts
Harris of Archer	Rogers
Harris of Dallas	Stanfield
Hartzog	

Absent—Excused

Bourne	Palmer
Broyles	Roane
Hyder	Shofner
Padgett	

Mr. Pope raised the following points of order on further consideration of Senate Bill No. 5:

Senate Bill No. 5, as set out in Conference Committee Report on pages 318 to 338 House Journal, expressly declares its purpose to be:

1. An unemployment insurance system to supplement the Federal Social Security Program.

2. The enactment of a measure for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed.

3. Exclusion of service performed that is strictly intrastate but covers unemployment only classified as interstate, designedly and expressly a ratification of the Federal Social Security Program.

4. An attempted ratification of an Act of Congress in such manner as will and does bring it under the provisions of Article V of the Federal Constitution for the amendment thereof.

In view of the foregoing statement, I urge a point of order against further consideration of said Conference Report on Senate Bill No. 5, and to said Senate Bill No. 5 for the following reasons:

1. The attempted ratification of the Federal Social Security Program as passed by the Congress of the United States by this Legislature and thereby amend the Constitution of the

United States is contrary to the requirements of Article V of the Constitution of the United States.

2. That the attempted ratification of said Federal Social Security Program in the manner set out in said Senate Bill No. 5, is designed as a method of amending the Constitution of the United States and its purpose being undisclosed to this Legislature constitutes and is a fraud upon the Legislature.

3. That practically the identical question involved in said Senate Bill No. 5 was passed upon by the Supreme Court of the United States in the case of Railroad Retirement Board, et al, v. Alton Railroad Company, et al, on May 6, 1935, reported in Vol. 295, United States Reports, and the Court in said case declared that there was no provision in the Constitution of the United States, not even the provision relating to interstate transportation, which would justify the constitutionality of said Railroad Retirement Act. Said Court in said case declared, "We cannot agree that these ends if dictated by statute, and not voluntarily extended by the employer, encourage loyalty and continuity of service. We feel bound to hold that a pension plan thus imposed is in no proper sense a regulation of the activity of interstate transportation. It is an attempt for social ends to impose by sheer fiat non-contractual incidents upon the relation of employer and employee, not as a rule or regulation of commerce and transportation between the States, but as a means of assuring a particular class of employees against old age dependency. This is neither a necessary nor an appropriate rule or regulation affecting the due fulfillment of the railroads' duty to serve the public in interstate transportation."

4. This Legislature, with full knowledge that the Federal Social Security Program, as the same is attempted to be adopted in said Senate Bill No. 5, will be declared unconstitutional by the Supreme Court of the United States for the same reasons as set out in said case of the Railroad Retirement Board, et al, v. Alton Railroad Company, et al, are attempting to forestall said Federal Constitutional limitations by a conspiracy to adopt and ratify said Federal Social Security Act by getting the ratification of the Legislatures of the required

number of States in advance of said court decision and thereby seek to show that the Legislatures of the required number of States have already ratified said Act of Congress and thereby amend the Constitution of the United States as relates to said Federal Social Security Program.

5. That said Senate Bill No. 5 is unconstitutional, in that it violates one or more of the provisions of the Constitution of this State and/or of the Constitution of the United States.

6. It particularly violates Section 6 of Article XVI of the State Constitution, and violates Section 3 of Article VIII of the Constitution of Texas, and Sections 48 and 51 of Article III.

7. The Sovereign Power of the State may be exercised in the levy and collection of taxes, burdens imposed for the support of the Government, only on condition they shall be devoted to public purposes. The Supreme Court of Texas in a well considered opinion delivered by Chief Justice Phillips in the case of Waples, et al, vs. Marrast, reported in 184 S. W., pages 180 to 184, passed upon the question involved in this point of order and expressly declared that the Legislature does not have the power to provide, directly or indirectly, for a grant for private or individual purposes any funds raised under Act of the Legislature. Since Senate Bill No. 5 expressly declares that such Act is for the compulsory setting aside of unemployment reserves to be used for the benefits of unemployed, it cannot be reasoned that such a grant or appropriation is for a public purpose, and since said reserves are commanded to be other than for public purposes then certainly Senate Bill No. 5 is in conflict with one or more of the provisions of the Constitution of this State and/or of the United States.

This point of order should be sustained and further consideration of Senate Bill No. 5 denied.

The Speaker overruled the points of order.

Question first recurring on the motion by Mr. Russell, that the Conference Committee report be not adopted, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—35

Adkins	Frazer
Aikin	Fuchs
Alsup	Graves
Atchison	Hoskins
Bergman	Lanning
Broadfoot	Lindsey
Burton	Lucas
Butler of Karnes	Luker
Caldwell	Palmer
Canon	Patterson
Cooper	Petsch
Craddock	Pope
Davison of Fisher	Reed of Bowie
Dunagan	Russell
Dunlap of Hays	Sessions
Duvall	Stovall
England	Venable
Fox	

Nays—104

Adamson	Huddleston
Alexander	Hunt
Ash	Hunter
Bradbury	Jackson
Bradford	James
Bridgers	Jefferson
Butler of Brazos	Jones of Falls
Cagle	Jones of Shelby
Calvert	Jones of Wise
Celaya	Keefe
Collins	King
Colquitt	Knetsch
Cowley	Lange
Crossley	Latham
Daniel	Leath
Davis	Lemens
Davisson	Leonard
of Eastland	Lotief
Dickison	Mauritz
Dwyer	McCalla
Fain	McConnell
Farmer	McFarland
Fisher	McKee
Ford	McKinney
Gibson	Moffett
Glass	Moore
Good	Morris
Gray	Morrison
Greathouse	Morse
Hankamer	Newton
Hanna	Nicholson
Hardin	Olsen
Harper	Payne
Harris of Archer	Quinn
Harris of Dallas	Reader
Hartzog	Reed of Dallas
Head	Riddle
Herzik	Roach of Angelina
Hodges	Roach of Hunt
Hofheinz	Roark
Holland	Roberts
Howard	Rogers

Rutta	Tillery
Scarborough	Waggoner
Settle	Walker
Smith	Wells
Spears	Westfall
Stanfield	Wood of Harrison
Steward	Wood of Montague
Stinson	Worley
Tarwater	Young
Tennyson	Youngblood
Thornton	

Absent

Colson	Hill
Dunlap of Kleberg	Jones of Atascosa

Absent—Excused

Bourne	Padgett
Broyles	Roane
Hyder	Shofner

Question then recurring on the motion by Mr. Davisson of Eastland, that the report be adopted, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—111

Adamson	Hankamer
Alexander	Hanna
Ash	Hardin
Bradbury	Harper
Bradford	Harris of Archer
Bridgers	Harris of Dallas
Butler of Brazos	Hartzog
Cagle	Head
Calvert	Herzik
Collins	Hill
Colquitt	Hodges
Colson	Hofheinz
Cowley	Holland
Craddock	Howard
Crossley	Huddleston
Daniel	Hunt
Davis	Hunter
Davisson	Jackson
of Eastland	James
Dickison	Jefferson
Dunagan	Jones of Falls
Dunlap of Kleberg	Jones of Shelby
Duvall	Jones of Wise
Dwyer	Keefe
England	King
Fain	Knetsch
Farmer	Lange
Fisher	Lanning
Ford	Latham
Gibson	Leath
Glass	Lemens
Good	Leonard
Gray	Lotief
Greathouse	Lucas

Mauritz	Roberts
McCalla	Rogers
McConnell	Rutta
McFarland	Scarborough
McKee	Settle
McKinney	Smith
Moffett	Spears
Moore	Stanfield
Morris	Stinson
Morrison	Tarwater
Morse	Tennyson
Newton	Thornton
Nicholson	Tillery
Olsen	Waggoner
Payne	Walker
Quinn	Wells
Reader	Westfall
Reed of Dallas	Wood of Harrison
Riddle	Wood of Montague
Roach of Angelina	Worley
Roach of Hunt	Young
Roark	Youngblood

Nays—30

Adkins	Fuchs
Aikin	Graves
Alsup	Hoskins
Atchison	Lindsey
Bergman	Luker
Broadfoot	Palmer
Burton	Patterson
Butler of Karnes	Pope
Caldwell	Reed of Bowie
Canon	Roane
Cooper	Russell
Davison of Fisher	Sessions
Dunlap of Hays	Steward
Fox	Stovall
Frazer	Venable

Absent

Celaya	Petsch
Jones of Atascosa	

Absent—Excused

Bourne	Padgett
Broyles	Shofner
Hyder	

Mr. Farmer moved to reconsider the vote by which the Conference Committee report on Senate Bill No. 5 was adopted, and to table the motion to reconsider.

The motion to table prevailed.

REASON FOR VOTE

I do not favor Senate Bill No. 5, for the reason that it levies a tax for a purpose not authorized by the Constitution, is fundamentally wrong in principle, however, I voted for the

adoption of the Conference Committee Report in order that it might be immediately effective without any unnecessary delay.

CRADDOCK.

MESSAGE FROM THE SENATE

Austin, Texas, October 23, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate to inform the House the Senate has concurred in House Amendments to Senate Bill No. 20, by the following vote: Yeas 28, Nays 0.

Senate has concurred in House Amendments to:

S. C. R. No. 12, by the following vote: Yeas 28, Nays 0.

I am directed by the Senate to inform the House the Senate has adopted the following:

S. C. R. No. 16, Relative to Legislative intent of House Bill No. 8.

S. C. R. No. 17, Authorizing the Secretary of the Senate and the Chief Clerk of the House to make certain corrections in House Bill No. 8.

Respectfully,

BOB BARKER,
Secretary of the Senate.

CONSIDERATION OF CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 8

Mr. Good submitted the following Conference Committee Report on House Bill No. 8:

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Walter Woodul, President of the Senate.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sirs: We, your Conference Committee, appointed to adjust the differences between the Senate and House on House Bill No. 8,

Have had the same under consideration, and beg leave to report it back to the Senate and House with the recommendation that said House Bill No. 8 be adopted in the form hereto attached.

McKINNEY,
HANKAMER,
GOOD.

On the part of the House.

SMALL,
HOLBROOK,
MOORE,
DEBERRY,
REDDITT.

On the part of the Senate.

"H. B. No. 8

A BILL

To Be Entitled

An Act declaring the purpose of this enactment; providing for the payment of old age assistance benefits, and designating the State Board of Control as the Commission for this purpose; repealing House Bill No. 26, Acts of the Second Called Session of the 44th Legislature; amending Section 3, Chapter 241, Acts 44th Legislature; amending Chapter 241, Acts 44th Legislature; amending Section 21, of Article 1, Chapter 467, Acts Second Called Session of the 44th Legislature; amending House Bill 77, Second Called Session of the 44th Legislature; amending Section 46, Article 1, Chapter 467, Acts of the Second Called Session of the 44th Legislature; amending subsection 5, of Section 1, Chapter 10, Acts of the First Called Session of the 43rd Legislature; amending Articles 7070, 7059, 4769, 7064, Revised Statutes of 1925; amending Article 7060, Revised Statutes of 1925, as amended by Chapter 34, Acts of the 5th Called Session of the 41st Legislature; amending Section 2, Chapter 162, Acts of the 43rd Legislature, as amended by Section 1, Chapter 12, First Called Session of the 43rd Legislature; amending Articles 4858, and 7047, Revised Civil Statutes of 1925; amending Section 40A, of Article 7047, Revised Statutes of 1925, as amended by Chapter 212, Section 1, Acts of the 42nd Legislature; amending Section 3, Chapter 73, Acts of the 42nd Legislature; levying a tax upon carbon black, and providing for its collection; levying a tax upon coin-operated machines, exempting certain classes of machines, providing for the collection of such tax, including penalties; levying a stamp tax upon certain promissory notes, and providing for the collection thereof; levying a tax upon persons, firms, and corporations giving prizes and awards in connection with the operation of

certain businesses, and providing for the collection of such tax, with penalties for violation; imposing a tax upon the producers of ore, marble, cinnabar ore, and providing for the collection thereof; levying a tax upon individuals, societies, fraternal benefit societies, associations, or corporations domiciled in Texas transacting the business of life, accident, life and accident, health and accident insurance; partially repealing Section 17, Chapter 40, Acts of the 41st Legislature, First Called Session; providing penalties for failure to make reports showing the amount of business done by certain individuals, firms and corporations, and prescribing penalties, and prescribing means of collecting same, authorizing the Attorney General to institute injunction proceedings in certain cases and making it a penal offense for certain individuals to fail to make reports; allocating certain funds to the payment of old age assistance creating an Old Age Assistance Fund; allocating certain funds to General Revenue and to the Available School Fund; prescribing the time when portions of the Act shall become effective; declaring the Act to be severable; repealing all laws in conflict; making appropriation from General Revenue, and providing for the return thereof; making appropriation to pay Old Age Assistance; providing for the issuance of permits to solicitors for the sale of cigarettes, and prescribing fees and penalties in connection therewith; and declaring an emergency."

Be it enacted by the Legislature of the State of Texas:

Article I.

Section 1. It is hereby declared to be the intention and purpose of the Legislature by and through the enactment of this Act to provide, in part, for the payment of old age assistance benefits, by raising revenues for such purpose and by delimiting the class of persons who shall be eligible for old age assistance benefits. It is recognized by the Legislature that it is impracticable to pay benefits to persons over sixty-five (65) years of age, except those who are in necessitous circumstances; in order that the needy aged may be cared for, it is necessary that the

State have funds on hand to meet the accruing obligations therefor. In order to accomplish this purpose, the Legislature declares that it is necessary to accomplish two incidental objectives, namely: (1) the number of persons receiving old age assistance benefits must be decreased, and (2) in addition, more revenues must be provided for the purposes of paying such benefits. The accomplishment of this object is the purpose of this Act.

Article II.

Section 1. Subject to the provisions of this Act, needy persons residing in Texas over the age of sixty-five years who are in necessitous circumstances shall be entitled to financial assistance from the State of Texas.

Sec. 2. In addition to the duties now imposed by law, the State Board of Control is hereby charged with the duty of administering this Act, and, for the purpose of administering the provisions of this Act, the State Board of Control shall be known as and shall constitute the Texas Old Age Assistance Commission. Whenever the word "commission" is used in this Act, it shall mean the Texas Old Age Assistance Commission, which shall be composed of the members of the Board of Control. As members of the Texas Old Age Assistance Commission each member of the Board of Control shall be compensated, in addition to the compensation they now receive by law, on the basis of One Thousand Two Hundred (\$1,200.00) Dollars per year, which shall be paid in equal monthly installments out of the Old Age Assistance Fund herein created. The members of the Commission shall be entitled to all reasonable and necessary expenses incurred in the discharge of official duties, such allowance, however, not to exceed the sum fixed by law for other State officials in the discharge of similar duties.

Sec. 3. The Commission may grant financial aid to any needy person who is in necessitous circumstances provided such person

(a) Has attained the age of sixty-five (65) years;

(b) Is a citizen of the United States;

(c) Has resided in the State of Texas for five (5) years or more within the last nine (9) years pre-

ceding the date of his application for assistance, and has resided in the State of Texas continuously for one year immediately preceding the application. The terms "residence", "residing" and "resided" as used in this Act shall denote actual physical presence within this State as distinguished from the word "domicile" and the word "residence" as used in their broader meaning.

(d) Is not at the time of receiving such aid an inmate of any public or private home for the aged, or any public or private institution of a custodial, correctional, or curative character, provided, however, that aid may be granted to persons temporarily confined in private institutions for medical or surgical care;

(e) Has not made a voluntary assignment or transfer of property for the purpose of qualifying for such aid;

(f) Is not an habitual criminal or an habitual drunkard;

(g) Is unable to support himself and has no husband or wife able to furnish him or her with support, and has no other means of support.

Sec. 4. In determining the eligibility of an applicant for assistance under this Act, it shall be the duty of the Commission to consider and take into account all facts and circumstances surrounding the applicant, including his earning capacity and his opportunity to obtain support from other sources, and if from all the facts and circumstances the applicant does not appear to be in a needy and necessitous condition, assistance shall be denied. In calculating income and resources of the applicant, the Commission shall take into account all money received by gift, devise or descent.

Sec. 5. On the effective date of this Act each member of the Texas Old Age Assistance Commission created under the provisions of House Bill No. 26, Acts Second Called Session of the Forty-fourth Legislature, and each agent, officer and employee of said Commission, shall deliver to the Board of Control all furniture, fixtures, files, books, records, accounts, data and equipment belonging to the State of Texas or appertaining to his office or employment and the Board of Control shall receive and receipt for same. Each member, agent, and officer of said

Commission shall pay over to the officer lawfully authorized to receive the same all money coming into his hands as such and shall also deliver to said Board of Control the possession of the offices and premises occupied by said Commission.

Sec. 6. (a) On the effective date of this Act the Board of Control, acting as the Texas Old Age Assistance Commission, shall select and appoint an Executive Director of the Texas Old Age Assistance Commission, who shall be not less than thirty-five (35) years of age at the date of his appointment, who is a resident citizen of the State of Texas and who shall have resided within the State for at least ten (10) years preceding the date of his appointment, who shall not be an occupant of any elective State office at the time of his appointment nor have occupied any elective State office during the six (6) months next preceding the date of his said appointment, and who shall be paid an annual salary of Five Thousand (\$5,000.00) Dollars in equal monthly installments. The said Old Age Assistance Commission shall also appoint a Chief Auditor who shall be paid an annual salary of Four Thousand (\$4,000.00) Dollars in equal monthly installments. The Executive Director and the Chief Auditor shall make and execute a bond in form prescribed by the Attorney General, payable to the Governor of Texas, in the sum of Thirty Thousand (\$30,000.00) Dollars conditioned upon their faithful performance of the duties imposed upon them by law. The premium on such bonds shall be paid out of the funds herein appropriated for operating expenses, and any recovery on such bonds shall inure to the benefit of the Old Age Assistance Fund.

(b) The Executive Director, under the direction of the Old Age Assistance Commission, shall be the chief administrative officer of said Commission, and as such shall be responsible for the proper and economical administration of the affairs of such Commission. He shall have the power and authority, with the consent and approval of a majority of the members of the Commission, to select, appoint and discharge such assistants, clerks, stenographers, auditors, bookkeepers and clerical assistants as may be necessary in the administration of the duties imposed upon such Commission within the limits of the ap-

propriations that may be made for the work of said Commission; salaries of all such employees shall be fixed by the Commission in keeping with salaries paid other State employees performing similar work and holding similar positions. The Commission is authorized to require bond or bonds from any and all of its employees in such amounts as it may designate, and in such form as may be prescribed by the Attorney General, whenever in its discretion such bonds may be deemed necessary and advisable, and the premiums on such bond or bonds shall be paid out of the Texas Old Age Assistance Fund.

(c) The Commission shall provide for the holding of hearings in all appeals by applicants for aid or assistance where such aid or assistance has been denied by the local administrative agency to which application was made; provided that such hearings may be conducted by any one of the members of the Commission or for any employee designated by the Commission to hold the same. When such hearings are conducted by less than a majority of the Commission or by any employee, a transcript of all testimony taken shall be prepared and filed with the Commission and any order therein must be signed by a majority of the Commission.

(d) The Commission shall provide for such methods of administration (other than those relating to selection, tenure of office and compensation of personnel) as are found by the United States Social Security Board to be necessary for the efficient operation of the plan of Old Age Assistance herein established.

(e) The Commission shall make such reports in such form and containing such information as the Social Security Board may from time to time require, and comply with such provisions as said Social Security Board may from time to time find necessary to assure the correctness and verification of such reports.

Sec. 7. The Commission shall have full power and authority to provide such method of local administration in the various counties and districts of Texas as it deems advisable, and shall provide such personnel as may be found necessary for carrying out in an economical way the administration of this Act; provided, however, that all employees of the Commission shall have been residents of the State

of Texas for a period of at least four (4) years next preceding their employment.

Sec. 8. The expenses of administering this Act shall never exceed five per cent (5%) of the total amount expended for Old Age Assistance; provided, however, that the Commission is empowered to accept any funds appropriated and allocated to the State of Texas for administrative expense by the Federal government or the Social Security Board, and same may be expended for administrative purposes in addition to that allowed for administrative purposes out of State funds expended.

Sec. 9. Any person over the age of sixty-five (65) years may present or mail an application in writing for an old age assistance grant to the local administrative agency designated by the Commission to receive the same. Such application shall be upon forms prescribed by the Commission, shall be duly sworn to before some officer authorized by the laws of this State to administer oaths, and shall contain such information as may be required by the Texas Old Age Assistance Commission, and such application shall state that it is made for old age assistance under the provisions of H. B. No. 8, Acts, Forty-fourth Legislature, Third Called Session. The Texas Old Age Assistance Commission may accept any applications for assistance that have been heretofore filed with the Texas Old Age Assistance Commission created by H. B. No. 26, Acts, Forty-fourth Legislature, Second Called Session, under the provisions of that Act, if it appears to the said Commission that such applications satisfy the provisions of this Act; provided, however, that the Commission shall be authorized to require the filing of a new application in any or all of such cases.

Sec. 10. Upon the filing of such application for aid or assistance, it shall be the duty of the local administrative agency in the county or district in which such application is made to investigate, or cause to be investigated in the manner required by the Commission, such sworn statements appearing in such application to determine the truth or falsity of statements therein contained, said agency having the power and authority to compel the attendance of witnesses, administer oaths, and compel

the production by subpoenas duces tecum of books and records and the furnishing of such other affidavits and information as it may deem necessary and advisable. After an examination of the application and such investigation as to the truth or falsity of the statements contained therein as may be deemed necessary, the local agency shall enter an order upon such application either granting the same in whole or in part, or denying the same, and a copy of such order shall be furnished to the applicant and a copy to the Commission, provided, that nothing herein shall be construed as denying or interfering with the right of the Commission to review such order prior to the entering thereof and require any modification not inconsistent with the law and the rules and regulations of the Commission. Any applicant who is dissatisfied with the order made by the local administrative agency shall have the right to appeal to the Commission by giving written notice of such dissatisfaction to said Commission. When the Commission has been notified of the dissatisfaction of any applicant with an order made by a local agency, it shall command the local agency to transmit to the Commission the originals or certified copies of all records, affidavits, instruments, testimony or other evidence taken in connection with such application. The Commission shall make a full and complete examination of the record before it, and if, after such examination, it is of the opinion that the aid or assistance should be allowed or increased, it shall enter an order allowing or increasing the assistance or aid to the applicant and shall forward a copy of this order to the applicant and a copy thereof to the local administrative agency. If after examining the records before it, the Commission is of the opinion that aid or assistance should not be awarded to the particular applicant or that the amount thereof as awarded by the local agency should not be increased, the Commission shall set the matter down for hearing and shall give written notice of the time and place of such hearing to the applicant, at which hearing the applicant shall have the right to appear in person and testify, or to present any other evidence or testimony written or otherwise, to sustain his application. As soon after

such hearing as possible and practicable, the Commission shall enter a final order on such application, mailing a copy thereof to the applicant and a copy to the local administrative agency, from which said final order there shall be no right of appeal.

Sec. 11. (a) The amount of old age assistance or aid from State funds that may be paid to any applicant, who has qualified under the terms of this Act, shall never exceed the sum of Fifteen (\$15.00) Dollars per month, and in addition thereto such funds as the Federal government may appropriate and allocate to the State of Texas from time to time shall be distributed among recipients of assistance in like manner as State Funds are paid under the terms of this Act; provided, that in no case shall such aid or assistance be in an amount which, when added to the income of the applicant from all other sources, including income from property and from the State and Federal government, shall exceed a total of Thirty (\$30.00) Dollars per month; provided that the assistance granted herein shall be granted in such amounts as will provide reasonable subsistence not incompatible with good health and decency.

(b) For the purpose of paying the aid and assistance to needy citizens of Texas herein provided for, and for the purpose of defraying the expenses of administering this Act, there is hereby created and established a special fund in the Treasury of the State of Texas, to be kept by the State Treasurer separate and apart from all other funds, and to be known as the "Texas Old Age Assistance Fund", and for the purposes above set out there is hereby appropriated out of such fund the sum of Seven Million (\$7,000,000.00) Dollars, or so much thereof as may be necessary, for the fiscal year ending August 31, 1937. Provided that if the fund is insufficient to pay all grants in full, the same shall be paid pro rata, based on the amount granted to each recipient.

(c) There is hereby appropriated to the Commission out of the General Revenue Fund of the State of Texas the sum of Fifty Thousand (\$50,000.00) Dollars, or so much thereof as may be necessary, for the purpose of setting up the administrative machinery, and for the purpose of re-

ceiving, classifying and reclassifying applications and pending grants. For the purpose of paying the additional expenses placed upon the Comptroller of Public Accounts under the provisions of this Act, including the purchase of equipment and supplies, printing of warrants and stationery, office space, and any other expenses necessary in carrying out the provisions of this Act, there is hereby appropriated, out of any money in the State Treasury not otherwise appropriated, the sum of Fifteen Thousand (\$15,000.00) Dollars, or so much thereof as may be necessary, for the current fiscal year of the present biennium to the Comptroller of Public Accounts, provided that any salaries paid against this appropriation shall not exceed the salaries for similar positions now authorized under the General Appropriations Bill. For the purpose of paying the additional expenses placed upon the State Treasurer under the provisions of this Act, including the purchase of equipment and supplies, printing of stationery and other expenses necessary in carrying out the provisions of this Act, there is hereby appropriated the sum of Ten Thousand (\$10,000.00) Dollars, or so much thereof as may be necessary, for the current fiscal year of the present biennium, to the State Treasurer, provided that any salaries paid against this appropriation shall not exceed the salaries for similar positions now authorized under the General Appropriations Bill.

(d) It is further expressly provided that all sums of money paid out of the General Fund of the Treasury of the State of Texas under the provisions of this Section shall be repaid to such General Fund out of the first moneys accruing to the benefit of the Texas Old Age Assistance Fund, and the Treasurer of the State of Texas is expressly directed to transfer an amount from such Texas Old Age Assistance Fund to the General Revenue Fund equal to the amount expended from the amounts herein appropriated from such General Revenue Fund.

Sec. 12. (a) It shall be the duty of the Commission to review and examine the applications of all persons to whom grants of assistance have heretofore been made under the provisions of H. B. 26, Acts, 44th Legislature, Second Called Session, and to determine, under the provisions of

this Act, the eligibility of such applicants for Old Age Assistance; provided that the Commission shall be authorized to promulgate and adopt such rules and regulations as may be necessary immediately to make grants of assistance to such of those persons as may be eligible under the provisions of this Act. All of such persons who have been heretofore receiving Old Age Assistance under the provisions of H. B. 26, Acts of the 44th Legislature, Second Called Session, who shall not be found to be immediately eligible under such procedure as may be adopted by the Commission under the provisions of the preceding sentence herein, shall be investigated in the manner prescribed by Section 10 of this Act.

Whenever it is found, by investigation of the local administrative agency, or otherwise, that assistance has been granted to any person who is not eligible therefor, the Executive Director shall immediately order such assistance terminated and shall furnish a copy of such order to the applicant and a copy to the local administrative agency, and from such order the applicant shall have the right to appeal to the Commission, and when assistance to any person has been terminated, no further payments shall be made to such person until the Board shall have determined on appeal that such payments be resumed.

(b) The provisions of this Act providing for Old Age Assistance shall not be construed as a vested right in the recipient of Old Age Assistance.

(c) An Old Age Assistance grant shall be absolutely inalienable by any assignment, power of attorney, sale, charge, or execution or other legal process, and in case of bankruptcy the assistance shall not pass through any trustee or other person acting on behalf of creditors.

(d) The Commission is authorized to accept on behalf of the Old Age Assistance Fund any gifts, deeds or bequests of any money or other property, the proceeds of which shall accrue to the benefit of the Old Age Assistance Fund. In making such gifts or contributions the donor shall attach no conditions whatever. The sole management and disposition of the property so received shall be in the Commission.

Sec. 13. (a) All old age assistance benefits provided for under the terms of this Act shall be paid by vouchers or warrants drawn by the State Comptroller on the Texas Old Age Assistance Fund; for the purpose of permitting the State Comptroller properly to draw and issue such vouchers or warrants, the Texas Old Age Assistance Commission shall furnish the Comptroller with a list or roll of those entitled to assistance from time to time, together with the amount to which each recipient is entitled. When such vouchers or warrants have been drawn, they shall be delivered to the Executive Director of the Texas Old Age Assistance Commission, who in turn shall supervise the delivery of the same to the persons entitled thereto.

(b) The Commission shall furnish monthly to the county clerk of each county a list showing the names of all persons in such county receiving old age assistance and the amount thereof. Such list shall be a public record in such county and as such shall be available for public inspection at all reasonable hours.

Sec. 14. On the effective date of this Act, the State Treasurer shall transfer all funds to the credit of the Texas Old Age Assistance Fund created by House Bill No. 26, Acts Second Called Session, Forty-fourth Legislature to the Texas Old Age Assistance Fund created by virtue of this Law.

Sec. 15. All grants of assistance or aid from the Federal government and its agencies shall not be considered as a part of the State assistance herein granted, but shall be regarded as a separate grant of assistance or aid.

Sec. 16. Every assistance granted under the provisions of this Act shall be deemed to be granted and shall be held subject to the provisions of any amending or repealing Act that may be hereafter enacted, and no recipient under this Act shall have any claim for compensation or otherwise by reason of his assistance being affected in any way by such amending or repealing Act.

Sec. 17. Whenever in this Act the masculine pronoun is used, it shall be held to include the feminine pronoun also.

Sec. 18. If any recipient under this Act is convicted of any crime,

misdemeanor or felony, or other offenses, punishable by imprisonment for a period of six (6) months or longer, such fact shall be reported to the Old Age Assistance Commission and the said Commission may direct that payments to such recipient be defaulted and withheld for such period.

Sec. 19. It shall be unlawful for any attorney at law or attorney in fact, or any other person, firm or corporation whatsoever, representing any applicant for old age assistance or aid in this State to charge a fee for his services in excess of Ten (\$10.00) Dollars in aiding or representing any such applicant before the Old Age Assistance Commission or for any other services in aiding such applicant to secure an old age assistance grant. It shall likewise be unlawful for any person, firm or corporation to advertise, hold himself out or solicit the procurement of old age assistance or aid. Any person violating this Section of this Act shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by confinement in the county jail for a period of not to exceed thirty (30) days, or by both such fine and imprisonment. Where any firm, association, or corporation is found to be guilty of a violation of the provisions of this Section the offending act of such firm, association or corporation shall be deemed to be the act of the president, general manager, or other managing official of such firm, association, or corporation, and such official shall be subject to the same penalties as herein provided for other persons.

Sec. 20. All laws and parts of laws in conflict herewith are hereby repealed.

Sec. 21. If any section, subsection, paragraph, clause or sentence in this Act is declared to be unconstitutional, the same shall not affect the remaining portions of this Act.

Sec. 22. Section 10 of H. B. No. 26, Chapter 472, Acts Second Called Session, Forty-fourth Legislature, is hereby expressly repealed. The Commission, together with the Comptroller and the Treasurer, shall convert into cash all securities in which the funds of the Permanent Old Age Pension Fund have heretofore been invested, and all funds and moneys which have heretofore been deposited to the credit of the Permanent Old

Age Pension Fund are hereby appropriated to the Texas Old Age Assistance Fund.

Article III

Section 1. That Section 3, Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature, page 575, be so amended as hereafter to be and read as follows:

"Sec. 3. A 'Cigarette Tax Stamp Board' composed of the Board of Control of this State, designated hereafter as the 'Board', is hereby created and the said Board shall be and is hereby required to design and have printed or manufactured new cigarette tax stamps of such size and denominations and in such quantities as may be determined by the said Board. The stamps shall be so manufactured as to render them easy to be securely attached to each individual package of cigarettes; provided that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet or stamps, or other methods of identification be adopted as the Board may decide. The printing or manufacturing of the stamps shall be awarded by competitive bid and the contract shall be awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act.

"The Board acting through the Treasurer shall, upon receipt of the stamps hereinabove authorized to be printed or manufactured, designate the date of issue of the new design of stamps by issuing a proclamation as hereinafter provided. Provided that the stamps shall be affixed by the distributor on each individual package of cigarettes that will be handled, sold, distributed, or used; that said stamps shall be supplied by said Treasurer to all distributors holding a permit in the State at a discount of two and one-half (2½) per cent from the face value; that every distributor shall cause to be affixed to every individual package of cigarettes on which a tax is due, stamps of an amount equaling the tax due thereon, before any such distributor sells, offers for sale, or consumes, or otherwise distributes or transports the same.

"From the effective date of this Act, one-third of the net revenue derived from the Act levying the Cigarette Tax shall be credited to the Available School Fund of the State of Texas, and two thirds shall be credited to the Texas Old Age Assistance Fund.

"The Board is hereby authorized to change the design of the stamps as often as it may deem such change necessary to the best enforcement of the provisions of this Act, and the Treasurer is hereby required to redeem at face value any unused cigarette tax stamps lawfully issued, prior to such change in the design, which are in the possession of any bona fide owner, by exchanging at face value cigarette tax stamps of the new design. Provided that whenever a change is made in the design of the stamps every person holding stamps of the old design shall be required to send them to the Treasurer for exchange at face value for stamps of the new design. Such exchange shall be made within sixty (60) days after the date of issue of the new design of stamps and it shall be unlawful for any person to have in his possession any stamps of an old design after sixty (60) days from the date of issue of any new design; provided it shall be unlawful for any person to sell, offer for sale, or possess for the purpose of sale, cigarettes to which stamps of the old design are affixed after sixty (60) days from the date of issue of a new design; provided, further, that after sixty (60) days from the date of issue of any new design of stamps the old design shall be void and cigarettes with stamps of the old design affixed to the individual package shall, for the purpose of the enforcement of the provisions of this Act, be considered as cigarettes without stamps affixed thereto. It shall be the duty of the Treasurer upon receipt of any new design of stamps authorized to be printed by the Board to designate the date of issue of such new design by the issuance of a proclamation and the date of such proclamation shall be the date of issue of the new design of stamps.

"Any person who shall have in his possession any cigarette tax stamps of an old design after sixty (60) days from the date of issue of a new design of stamps shall be guilty of a felony and shall be punished as set out in Section 26 of this Act.

"Provided that any cigarette tax stamps may be exchanged only when proof satisfactory to said Treasurer is furnished that any stamps offered to said Treasurer in exchange were properly purchased and paid for by the person offering to exchange such stamps; provided further, that stamps which are effaced or mutilated in any manner may be refused for acceptance in exchange by said Treasurer.

"The Treasurer shall keep a record of all stamps sold by him or under his direction, of all stamps exchanged by him and of all refunds made on stamps purchased.

"Orders for cigarette tax stamps shall be sent direct to the Treasurer and it shall be the duty of the Treasurer to invoice the stamps ordered to the purchaser upon a form invoice to be prescribed by the Treasurer, which invoice shall be issued in triplicate and numbered consecutively. The invoice shall show the date of sale, the name and address of purchaser, the number of stamps and their serial numbers, the denomination and value of stamps so purchased. The invoice shall be signed by the Treasurer and the original sent with stamps to the purchaser; the duplicate of the invoice shall be sent to the Comptroller and the triplicate kept by the Treasurer; provided further, that the purchaser of said stamps shall hold the said invoice for a period of two (2) years for inspection at all times by the Comptroller and the Attorney General. No stamp affixed to a package of cigarettes shall be cancelled by any letter, numeral or any other mark of identification or otherwise mutilated in any manner that will prevent or hinder the Comptroller in making an examination as to the genuineness of said stamp.

"Stamps in unbroken sheets of one hundred (100) stamps may be exchanged, with the Treasurer only, for stamps of a different denomination. Provided further, that the Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each to the person who purchased said stamps only when proof satisfactory to said Treasurer is furnished that any stamps upon which a refund is requested were properly purchased from said Treasurer and paid for by the person requesting such refund. Such refund shall be

made from revenue derived from this Act before such revenue is allocated as herein provided."

Sec. 1a. That Chapter 241, Acts of the Regular Session of the Forty-fourth Legislature, be amended by adding a new section to be known as Section 8A:

"Sec. 8A. No individual shall offer for sale or solicit any order in this State for the sale of any cigarettes for shipment to points within this State, for his own account or for the account of any person, firm, association or corporation, unless and until such person or individual shall have first filed an application for and obtained from the State Comptroller a solicitor's permit. Such permit shall authorize the permittee to solicit orders for the sale of cigarettes and shall set forth the name and address of the vendor and/or employers whom the solicitor represents, and such solicitor shall not represent any vendor, and/or employers whose name does not appear upon such permit. The fee for such permit shall be One (\$1.00) Dollar per year or part thereof, and the permit shall be issued for the calendar year, beginning January 1, 1937, at which time this Section of this Act shall become effective. Such permittee shall, on the fifth (5th) day of each month, file with the Comptroller, on proper forms to be supplied him by said official, copies of all orders solicited by him in the State during the preceding calendar month for cigarettes, said copies to show the quantity and kind of cigarettes ordered, by whom ordered, from what person, firm or corporation ordered, the full name and correct address of purchaser, the date said cigarettes were ordered and any other information which may be required by the Comptroller; and the failure of such permittee to comply with the provisions hereof shall subject him to the forfeiture of his permit, after five (5) days notice and opportunity to be heard by the Comptroller of Public Accounts. No new permit shall be issued for a period of one (1) year to anyone whose permit has been forfeited, except in the discretion of the Comptroller.

"If any person shall offer for sale or solicit any order in this State for the sale of cigarettes for shipment to a point within the State, without then and there having a valid so-

licitor's permit, he shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200.00)."

Sec. 2. That Article II, Section 5, Chapter 467, Acts of the Forty-fourth Legislature, Second Called Session, shall be amended so as to read hereafter as follows:

"Before any license required by this Article shall be issued, the license fee required therefor shall be paid to the Assessor and Collector of Taxes of the county where such license is issued for the use and benefit of the Old Age Assistance Fund of the State of Texas. Such funds shall be transmitted to the Comptroller of the State and by him delivered to the State Treasurer to be placed to the credit of the Old Age Assistance Fund. Annual fees required for license authorized by this Article shall be as follows:

"(a) For a license authorizing the manufacture and sale by a manufacturer, \$500.00.

"(b) For a general distributor, \$200.00.

"(c) For a local distributor, \$50.00.

"(d) For a license authorizing the sale of beer by retail dealer for consumption on or off the premises where sold, \$25.00.

"(e)—For a license authorizing the sale of beer by retail dealer in the original container direct to the consumer, but not for resale, and not to be consumed on the premises where sold, \$10.00.

"(f) Any license issued under the terms of this Article authorizing the manufacture, distribution and sale of beer shall terminate one year from the date issued, and no license shall be issued for a longer term than one year. Any such license may be renewed by written application of the licensee filed with the Assessor and Collector of Taxes of the county of the licensee's residence, not more than thirty (30) days prior to the date of expiration of any license held by him. Such application shall be in writing, signed by the applicant and contain full and complete information as set out and required in the original application upon which such original license was issued, accompanied by a fee of Two

(\$2.00) Dollars, which said sum of Two (\$2.00) Dollars shall be in addition to the amounts in this Article required to be paid for annual licenses, as a renewal fee charge. Such sum so paid as renewal fee charges shall be deposited in the county treasury by the respective assessors and collectors of taxes as fees of office and be so accounted for by them respectively. Upon the presentation of such application for renewal of license, together with the sums required by this Article for an annual license, plus the said renewal fee of Two (\$2.00) Dollars, it shall be the duty of the assessor and collector of taxes to forthwith issue such renewal license upon the form to be prescribed by the Texas Liquor Control Board; provided, however, that no applicant for a license under the terms of this Article shall be required to pay at any one time more than the annual fees required for licenses hereunder and the renewal fee of Two (\$2.00) Dollars herein provided; but such applicant shall always be required to pay such fees in advance.

“(g) No manufacturer, general distributor, local distributor or retail dealer shall carry on such business at more than one place under the same license, but a separate license must be obtained for each place of business, nor shall any license be voluntarily assigned more than once, but before any assignee of such license can engage in business thereunder, he or they shall comply with the provisions of this Article governing the manufacture, sale and distribution of beer as required of original licensee, and provided further that the sale of such license, whether in the name of the original licensee or assignee, may be made under execution or foreclosure of mortgage, and the holder of such license under execution or foreclosure shall have the right to surrender such license to the State or county which issued the tax receipt, which is the basis thereof, and shall receive therefor the pro rata unearned portion of such license, and appropriation of such funds as may be required for such refunds is hereby authorized, provided that should such original licensee or his assignee desire to change the place designated in said license he may do so by applying to the County Judge as in the case of the original application for license as

herein provided. No licensee shall obtain any refund upon the surrender or non-use of any license for the manufacture, sale, or distribution of beer.

“(h) The Commissioners Court of each county in this State shall have the power to levy and collect from every person that may be licensed hereunder in said county a license fee equal to one-half ($\frac{1}{2}$) of the State fee; and the city or town wherein the licensee is domiciled shall have the power to levy and collect a license fee not to exceed one-half ($\frac{1}{2}$) of the State fee, but no other fee or tax shall be levied by either. But nothing herein contained shall be construed as preventing the levying, assessing and collecting general ad valorem taxes on the property of said persons, individuals, partnerships or corporations so licensed.

“(i) There is hereby provided a ‘Temporary License’ authorizing the sale by a retail dealer of beer for consumption on or off the premises where sold. The fee for such ‘Temporary License’ shall be Five (\$5.00) Dollars. Such licenses shall be issued by the assessor and collector of taxes upon application approved by the County Judge, but no such permit shall be issued to any person who does not hold a license as provided in subsection (d) of this Section, and no such permit shall authorize the sale of beer at any point outside the county where same is issued. Any such temporary license shall expire at the end of the fourth day after the date the same is issued. Fees collected upon the issuance of such temporary licenses shall be retained by the county and no other fees shall be charged for such licenses; and no refund shall be allowed upon the surrender or non-use of any such license. The County Judge shall issue such licenses only for the sale of beer at picnics, celebrations, or similar events, and may refuse to issue such license if in his judgment the issuance of the license would in any manner be detrimental to the public.”

Sec. 3. That Section 21 of Article 1, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, page 1795, be so amended as hereafter to be and read as follows:

“There is hereby levied and imposed in addition to the other fees and taxes levied by this Act the following:

"(a) A tax of Ninety-six (96) cents per gallon on each gallon of spirituous alcoholic liquor, sold or offered for sale in this State; provided the minimum tax on any package of spirituous alcoholic liquor shall be six (6) cents.

"(b) A tax of Ten (10) Cents on each gallon of still wine that does not contain over fourteen (14) per cent of alcohol by volume sold or offered for sale in this State.

"(c) A tax of twenty (20) cents on each gallon of still wine containing more than fourteen (14) per cent and not more than twenty-four (24) per cent of alcohol by volume sold or offered for sale in this State.

"(d) A tax of fifty (50) cents on each gallon of still wine containing alcohol in excess of twenty-four (24) per cent by volume, sold or offered for sale in this State.

"(e) A tax of twenty-five (25) cents on each gallon of natural sparkling wines sold or offered for sale in this State.

"(f) A tax of twenty-five (25) cents on each gallon of artificially carbonated wine sold or offered for sale in this State.

"(g) A tax of fifteen (15) cents on each gallon of malt liquor containing alcohol in excess of four (4) per cent by weight sold or offered for sale in this State.

"The tax herein levied shall be paid by affixing stamps on each bottle or container of liquor. Said stamps shall be affixed in strict accordance with any rule or regulation promulgated in pursuance of this Act.

"It shall be the duty of the holder of distiller's, rectifier's, brewer's, wholesaler's beer and wine wholesalers and winery permits to affix said stamps on each bottle or container of liquor and to cancel the same by writing or printing thereon his name except as otherwise herein provided. In the case of wines the stamp shall be affixed to the original container and no further stamps shall be required if a portion or the whole of said contents of said original container be removed for resale as provided for in this Act. In case any bottle containing liquor be enclosed in a sealed container the affixing and cancellation of said stamps may be governed by rules and regulations promulgated hereunder that may allow for the affixing of said stamps

to such container; provided, further, that the stamps shall be affixed in such manner that their removal will require continued application of steam or water. Every holder of a wholesaler's permit shall, upon a receipt of a shipment of liquor for sale within this State, under the provisions of this Act, within twenty-four (24) hours after receiving the same and before it is offered for sale, prepare a true invoice thereof and give such other information in respect thereto as may be required by rules and regulations. Any holder of a wholesaler's permit, a distiller's permit, rectifier's permit, beer and wine wholesaler's permit, winery permit, or a brewer's permit, having in possession any liquor intended for shipment to any place without the State, shall keep such liquors in a separate compartment from that of liquors intended for sale within the State so that the same may be easily inspected and shall attach to each such package of liquor so intended for shipment without the State a stamp of the kind and character that shall be required by proper rule or regulation denoting that the same is not intended for sale within the State. When such liquors are so kept and so stamped no tax on account thereof shall be charged. For defraying the expenses thereof, a charge of the sum of twenty-five (25) cents shall be made for every such stamp. All such permittees authorized to transport liquor beyond the boundaries of this State shall furnish to the Board duplicate copies of all invoices for the sale of such liquors within twenty-four (24) hours after such liquors have been removed from their place of business.

"Provided that the tax herein levied shall apply and attach to all liquors which shall be in storage or in the possession of any person in this State and provided further that all persons having possession of any liquor shall on the effective date hereof render and submit to the Texas Liquor Control Board at Austin, Texas, a true and correct sworn inventory of all such liquors, setting forth in detail the size of containers and the quantity thereof. Such inventory is to be placed in the United States mail addressed to the Texas Liquor Control Board within twenty-four (24) hours of the effective date hereof and a true, correct and exact

copy thereof is to be retained by the person making such report. Failure or refusal to render such inventory shall be deemed sufficient grounds for the cancellation of any permit or license by the Board and in addition thereto any such person shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or by imprisonment in the county jail for any term not more than one year or by both such fine and imprisonment.

"It is further provided that the State Treasurer shall have printed and available on demand, tax stamps of such values as will enable any person having possession of liquors with legal and valid Texas tax stamps affixed, of a lower rate of assessment than is herein provided to affix an additional stamp on each container so that the added amount of tax paid as represented by such additional stamp together with the one originally affixed will equal the amount of tax herein levied. Any person who has in his possession any liquors, to the containers of which the proper tax stamps have not been affixed shall be deemed guilty of a misdemeanor and be subject to the penalties as prescribed in Section 43, Article 1, House Bill No. 77, Second Called Session of the Forty-fourth Legislature, and in addition thereto the Board may cancel after notice and hearing the permit of such person independent of the trial of the criminal case."

Sec. 3a. That Section 43, Article 1, House Bill No. 77, Second Called Session of the Forty-fourth Legislature, be so amended as hereafter to read as follows:

"Sec. 43. If a person shall have in his possession within this State any liquors not contained in a container to which is affixed a stamp or other valid evidence showing the payment of the tax on such liquor due to the State of Texas when such stamp is required to be affixed by law he shall be guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or be confined in the county jail not more than one year or by both such fine and imprisonment."

Sec. 3b. The provisions of Section 3 and 3a shall be effective and become law at twelve o'clock midnight of November 30, 1936.

Sec. 3c. That Section 46, Article 1, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature be and the same is hereby amended so as to read hereafter as follows:

"Sec. 46. Receipts from the sale of stamps provided for under Article 1 of this Act shall be deposited in the State Treasury as follows: One-fourth ($\frac{1}{4}$) to the credit of the Available School Fund, and three-fourths ($\frac{3}{4}$) to the credit of the Texas Old Age Assistance Fund. Receipts derived from the sale of permits provided for under Article I, in their entirety, shall be deposited to the credit of the Texas Old Age Assistance Fund."

Sec. 4. The following words, terms and phrases as used in this Act are hereby defined as follows:

(a) The term "Owner" as used herein shall mean and include any person, individual, firm, company, association or corporation owning or having the care, control, management or possession of any "coin-operated machine" in this State.

(b) The term "Operator" as used herein shall mean and include any person, firm, company, association or corporation who exhibits, displays or permits to be exhibited or displayed, in his or its place of business or upon premises under his or its control, any "coin-operated machine" in this State.

(c) The term "Coin-operated machine" as used herein shall mean and include every machine or device of any kind or character which is operated by or with coins, or metal slugs, tokens or checks, "Merchandise or music coin-operated machines" and "skill or pleasure coin-operated machines" as those terms are hereinafter defined, shall be included in such terms.

(d) The term "Merchandise or Music coin-operated machine" as used herein shall mean and include every coin-operated machine of any kind or character, which dispenses or vends or which is used or operated for dispensing or vending merchandise, commodities, confections or music and which is operated by or with coins or metal slugs, tokens or checks. The following are expressly included within said term: candy machines,

gum machines, sandwich machines, handkerchief machines, sanitary drinking cups, phonographs, pianos, graphophones, radios, and all other coin-operated machines which dispense or vend merchandise, commodities, confections or music.

(e) The term "Skill or pleasure coin-operated machines" as used herein shall mean and include every coin-operated machine of any kind or character whatsoever, when such machine or machines, dispense or are used or are capable of being used or operated for amusement or pleasure or when such machines are operated for the purpose of dispensing or affording skill or pleasure, or for any other purpose other than the dispensing or vending of "merchandise or music" or "service" exclusively, as those terms are defined herein. The following are expressly included within said term: marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature golf machines, miniature bowling machines, and all other coin-operated machines which dispense or afford skill or pleasure. Provided that every machine or device of any kind or character which dispenses or vends merchandise, commodities or confections or plays music in connection with or in addition to such games or dispensing of skill or pleasure shall be considered as skill or pleasure machines and taxed at the higher rate fixed for such machines.

(f) The term "Service coin-operated machines" shall mean and include pay toilets, pay telephones and all other machines or devices which dispense service only and not merchandise, music, skill or pleasure.

1. Every "owner" as that term is hereinabove defined, who owns, controls, possesses, exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machines" as that term is defined herein, shall pay and there is hereby levied on every coin-operated machine as defined in this Act, except such as are exempted herein, an annual occupation tax determined by the following schedule:

Series "1" (a) For each "merchandise or music coin-operated machine" as that term is hereinabove defined, a fee of Twenty (\$20.00) Dollars, where the coin, fee or token used,

or which may be used, in the operation thereof is one of the value in excess of Five (5) Cents, or represents a value in excess of Five (5) Cents.

And (b) a fee of Ten (\$10.00) Dollars where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of One (1) Cent and not exceeding Five (5) Cents or represents a value in excess of One (1) Cent and not exceeding Five (5) Cents.

Series "2" (a) For each "skill or pleasure coin-operated machine" as that term is hereinabove defined, a fee of Sixty (\$60.00) Dollars where the coin, fee or token used, or which may be used, in the operation thereof is one of the value in excess of Five (5) Cents, or represents a value in excess of Five (5) Cents.

And (b) a fee of Thirty (\$30.00) Dollars where the coin, fee or token used, or which may be used, in the operation thereof, is one of the value in excess of One (1) Cent and not exceeding Five (5) Cents or represents a value in excess of One (1) Cent and not exceeding Five (5) Cents.

Provided that nothing herein shall prevent the "operator" of such machines from paying the tax levied in this Act for the account of the "owner" but the payment of such tax by such operator or other person shall not relieve the owner from the responsibility of complying with all provisions of this Act including the keeping of the records required herein.

2. Gas meter, pay telephones, pay toilets, and cigarette vending machines which are now subject to an occupation or gross receipts tax and "service coin-operated machines" as that term is defined, are expressly exempt from the tax levied herein, and the other provisions of this Section.

3. Every coin-operated machine subject to the payment of the tax levied herein, and upon which the said tax has not been paid as provided herein, is hereby declared to be a public nuisance, and may be seized and destroyed by the Comptroller of Public Accounts, his agents, or any law enforcing agency of this State as in such cases made and provided by law for the seizure and destruction of common nuisances.

4. (a) Any person who shall invoke the power and remedies of injunction against the Comptroller of Public Accounts of the State of

Texas to restrain or enjoin him from enforcement of the collection of the tax levied herein upon any grounds for which an injunction may be issued, shall file such proceedings in a court of competent jurisdiction in Travis County, Texas, and venue for such injunction is hereby declared to be in Travis County, Texas.

(b) Before any restraining order or injunction shall be granted against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin the collection of the taxes levied herein the applicant therefor shall pay into the suspense account of the State Treasury all taxes, fees, and assessments then due by him to the State and the application for restraining order or injunction shall reflect said fact of payment under oath of the applicant, his agent, or attorney. Provided that said applicant shall keep for the inspection at all times of the Attorney General and the Comptroller of Public Accounts of this State or their authorized representatives, a well bound book record, showing all coin-operated vending machines possessed and in operation during the pendency of such restraining order or injunction. Such book record shall show the make and kind of machine, the serial number, the date such machine was put in operation, and the location and serial number of each and every machine possessed or operated within the State. Provided further that said applicant shall make and file with the Comptroller of Public Accounts daily, excluding Sundays and legal holidays, a report on a form to be prescribed by said Comptroller, showing the ownership, make and kind, and the serial number of every such machine operated by said applicant within this State. Said report shall also show the county, city, and location within the city and county of each machine and the date such machine was placed in operation. In the event the location or ownership of any machine is changed such information shall be included in said report. Said application and temporary injunction or restraining order shall be immediately dismissed and dissolved after hearing if said applicant fails, at any time before the case shall have been finally disposed of by the Court of last resort, to keep the records or make and file the reports required herein or to pay daily, excluding Sundays and

legal holidays, into the suspense account of the Treasurer all taxes, fees and assessments due and thereafter becoming due, and such taxes shall be paid before such machines are operated, exhibited or displayed for operation within this State. The Comptroller of Public Accounts of this State, or his authorized representatives, may file in the Court granting such injunction an affidavit that said applicant has failed to comply with the provisions of this Act or has violated the same. Upon the filing of said affidavit, the Clerk of said Court shall issue notice to the said applicant to appear before such Court upon the date named therein, which shall be within five (5) days from service of such notice or as soon thereafter as the Court can hear the same, to show cause why such injunction should not be dismissed, which notice shall be served by the Sheriff of the county in which applicant resides or any other peace officer in this State. In the event the injunction is finally dissolved or dismissed all taxes, fees and assessments, paid into the suspense account of the Treasurer under the provisions of this Act shall be paid to the funds to which such taxes, fees and assessments are allocated. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes the funds so deposited shall be refunded by the Treasurer to said applicant.

No person, firm, association or corporation required to pay the taxes levied herein to the State may receive or take advantage of any benefit of any restraining order or injunction against the Comptroller of Public Accounts, to restrain the collection of the tax levied herein except such person, firm, association or corporation as may have applied for said injunction. All other persons not securing an injunction shall pay to the Comptroller of Public Accounts all taxes, fees, and assessments due by him under the provisions of this Act and said restraining order or injunction shall, in no way, interfere with or impair the power of the Comptroller of Public Accounts of this State to collect and enforce the payment of the taxes, fees, and assessments involved in any litigation from taxpayers not parties to the restraining order or injunction. Provided

further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action, and shall have paid or deposited the taxes as herein before provided.

5. (a) For the purpose of enabling the Comptroller to determine the tax liability of the owners or operators of coin-operated vending machines in this State, or whether a tax liability has incurred, every individual, company, corporation, and/or association who owns, operates or displays any coin-operated machine in this State shall have a separate and different serial number stamped by indenture into the stationary wood or metal of each machine in a manner that such serial number cannot be removed or transferred to another machine, and such serial number shall be shown on the application for a license or permit and on the license or permit issued. If any person shall indent the same serial number on more than one machine or shall exhibit, display or have in his possession within this State any coin-operated machine with the license or permit of the Comptroller attached thereto and bearing the wrong serial number or a license or permit bearing a different serial number from the serial number stamped by indenture on said machines, he shall be guilty of a misdemeanor and punished as set out in Subsection 11 of this Section. The possession, exhibition or display of more than one machine bearing the same serial number operated under the same management or ownership, shall be prima facie evidence that the owner of such machines indented the same serial number on each machine for the purpose of evading payment of the tax levied herein.

(b) Provided further, the license or permit issued by the Comptroller to evidence the payment of the tax levied herein shall be securely attached to the machine in a manner that will require continued application of steam and water to remove the same.

6. (a) The Comptroller of Public Accounts shall have the authority to make and publish rules and regulations, not inconsistent with this Act

or the other laws or the Constitution of this State or of the United States, for the enforcement of the provisions of this Act and the collection of the revenues hereunder.

(b) If any individual, company, corporation or association who owns, operates, exhibits or displays any coin-operated machine in this State, shall violate any provision of this Act or any rule and regulation promulgated hereunder, the Comptroller of Public Accounts shall have the power and authority to forfeit all licenses or permits issued to any of the foregoing persons by giving written notice, stating the reason justifying such forfeiture and the same shall be forfeited five (5) days from date of such notice. No new licenses or permits shall be issued within a period of one (1) year to any one whose licenses or permits have been forfeited, except at the discretion of the Comptroller of Public Accounts. If the licenses or permits of any individual, company, corporation, or as association owning, operating or displaying coin-operated machines in this State is forfeited, such individual, company, corporation, or association shall not operate, display or permit to be operated or displayed such machines until the licenses or permits are reinstated or until new licenses or permits are granted.

7. The Comptroller of Public Accounts of this State is hereby authorized, ordered and directed to collect, and issue licenses or permits for the payment of the tax levied herein and to employ all the agencies of the law available to him for the enforcement of the provisions of this Act. Provided, however, that where the tax, as now levied under the provisions of Chapter 116, Acts of the First Called Session of the Forty-third Legislature, as amended by Chapter 354, Acts of the Regular Session of the Forty-fourth Legislature, upon coin-operated vending machines, has been paid at the time of the taking effect of this Act, then, and in that event, the said Comptroller of Public Accounts is authorized and empowered to make proper adjustment thereof, by crediting pro rata, upon the annual basis, any unearned tax, to the payment of the tax hereby levied. Provided further, that Ten Thousand (\$10,000.00) Dollars of the funds derived under the provisions of this Act

shall be set aside annually in a special fund subject to the use of the Comptroller and so much of said fund as may be necessary shall be expended for the printing of applications, licenses and permits and for the administration and enforcement of the provisions of this Act and so much of the proceeds of said fund shall be and the same is hereby appropriated for said purposes, same to be paid as needed; any unexpended portion of said fund so specified shall at the end of the biennium be paid in the proper proportion to the funds to which the tax levied herein is apportioned. Provided, however, that any salaries so here authorized to be paid shall not exceed in any particular the amount specified in the general appropriations bill passed at the Forty-fourth Legislature, Regular Session, for the same, similar or like services.

8. Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or coin-operated machine, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any Article of the Penal Code of this State or the Constitution of this State.

9. Every "owner" of one or more coin-operated machines in this State shall keep for a period of two (2) years for the inspection at all times by the Attorney General and Comptroller of Public Accounts of this State, or their authorized representatives, a complete book record in a well bound book of each and every such machine purchased, received, possessed, handled, exhibited or displayed in this State. Such record shall be kept at a permanent address which address shall be designated on the application for permit and shall include the following information: The make, kind and serial number of each such machine, the date acquired or received in Texas, the date placed in operation, the location or locations of each machine by serial number, including county, city, street and/or rural route number, the date of each and every change in location, the name and complete address of each and every operator together with the serial numbers of the machines operated by such operator, the full name and address of the owner, or if other than an individual the principal officers or members thereof and their addresses.

Such information shall be shown completely and separately for each and every machine. The Comptroller of Public Accounts shall be authorized and it shall be his duty to forfeit all licenses, permits of every owner failing to keep such records or failing to present such records for inspection at any time upon demand by said Comptroller of Public Accounts or his authorized representatives.

10. If any "owner" of a coin-operated machine within this State shall (a) deliver to or permit to be delivered to any "operator" a coin-operated machine without a valid license or permit issued by the Comptroller of Public Accounts of this State being attached thereto, or (b) permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said license or permit being attached thereto, or (c) if any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a license or permit issued by the Comptroller of Public Accounts of this State showing the payment of the tax due thereon for the current year, or (d) shall exhibit, display or have in his possession in this State any coin-operated machine without a serial number stamped by indenture into the wood or metal of said coin-operated machine, or (e) if any person shall exhibit, display or possess any coin-operated machine in this State with a license or permit attached thereto and bearing a different serial number from the serial number stamped by indenture on the machine to which said permit is attached, or (f) if any person required to keep records of coin-operated machines in this State shall falsify such records, or (g) shall fail to keep such records, or (h) shall refuse or fail to present such records for inspection upon the demand of the Comptroller of Public Accounts or his authorized representatives, or (i) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Act, or (j) mislead the Comptroller of Public Accounts or his authorized representatives in the enforcement of this Act, or (k) if any person in this State shall fail to comply with the provisions of this Act, or violate the same, or (l) if any person in this State shall fail to comply with

the rules and regulations promulgated by the Comptroller of Public Accounts, or violate the same, he shall forfeit to the State as a penalty, the sum of not less than Twenty-five (\$25.00) Dollars nor more than Five Hundred (\$500.00) Dollars. Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid shall be recovered in a suit by the Attorney General of this State in a Court of competent jurisdiction in Travis County, Texas, or any Court having jurisdiction.

11. (a) If any person shall exhibit, display or have in his possession within this State any coin-operated machine without having annexed or attached thereto a valid license or permit issued by the Comptroller of Public Accounts of this State showing the payment of the tax due thereon for the current year, or (b) shall exhibit, display or have in his possession in this State any coin-operated machine without a serial number stamped by indenture into the wood or metal of said coin-operated machine, or (c) if any person shall exhibit, display or possess any coin-operated machine in this State with a license or permit attached thereto bearing a different serial number from the serial number stamped by indenture on the machine to which said permit is attached, or (d) if any person required to keep records of coin-operated machines in this State shall falsify such records, or (e) shall fail to keep such records, or (f) shall refuse or fail to present such records for inspection upon the demand of the Comptroller of Public Accounts or his authorized representatives, or (g) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Act, or (h) mislead the Comptroller of Public Accounts or his authorized representatives in the enforcement of this Act, or (i) if any person in this State shall fail to comply with the provisions of this Act, or violate the same, or (j) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts, or violate the same, he shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

12. Provided that the Comptroller of Public Accounts, or his authorized representatives, in lieu of seizing any coin-operated machine upon which the tax has not been paid as provided in Subsection (3) herein, may seal such machine in a manner that will prevent further operation. Whoever shall break the seal affixed by said Comptroller or his authorized representatives, or whoever shall exhibit or display any such coin-operated machine after said seal has been broken, or shall permit to be exhibited or displayed in his place of business any coin-operated machine after said seal has been broken shall be guilty of a misdemeanor and upon conviction shall be punished as set out in Subsection 11 of this Section.

13. Except as herein provided in this Act, one-fourth of the net revenue derived from this Act shall be credited to the Available School Fund of the State of Texas and three-fourths of the net revenue derived from this Act shall be credited to the Old Age Assistance Fund of this State. Provided that all counties and cities within this State may levy an occupation tax on coin-operated machines in this State in an amount not to exceed one-half of the State tax levied herein.

14. That all occupation taxes, penalties and interest accruing to the State of Texas by virtue of any of the re-enacted or repealed provisions as set out in this Act before the effective date of this Act shall be and remain valid and binding obligations to the State of Texas for all taxes, penalties, and interest accruing under the provisions of prior or pre-existing laws, and all such taxes, penalties and interest now or hereafter becoming delinquent to the State of Texas before the effective date of this Act are hereby expressly preserved and declared to be legal and valid obligations to the State.

The passage of this Act shall not affect offenses committed, or prosecutions begun, under any pre-existing law, but any such offenses or prosecutions may be conducted under the law as it existed at the time of the commission of the offense.

15. If any section, subdivision, paragraph, sentence, clause or word of this Act be held invalid or un-

constitutional, the remaining portions of same shall, nevertheless, be valid; and it is declared that such remaining portions would have been enacted, notwithstanding such unconstitutional portion thereof.

16. That Chapter 116, Acts of the First Called Session of the Forty-third Legislature, as amended by Chapter 354, Acts of the Regular Session of the Forty-fourth Legislature, and all laws and parts of laws that conflict herewith are in all things repealed.

17. The revenues derived under and by virtue of the tax levied in this section shall be credited one-fourth (1-4) to the Available School Fund and three-fourths (3-4) to the Texas Old Age Assistance Fund, credited by the Treasurer.

Sec. 5. That subsection 5, of Section 1, Chapter 10, Acts of the First Called Session of the Forty-third Legislature, be and the same is hereby so amended and re-enacted as to hereafter read as follows:

"Subsection 5. Any person or persons, association or incorporation desiring to conduct racing of horses in Texas and to use in connection therewith the said certificate system, as in this Act authorized, shall make application in writing to the Racing Commission for license so to do. On the filing of such application, the Commission shall promptly cause to be published in a newspaper of general circulation in the county where the license to conduct racing is sought, and if there be no such newspaper in such county, then in a newspaper of general circulation in the nearest county, a brief notice of the contents of the application. If the newspaper used shall be a daily paper, then there shall be three (3) insertions of such notice four (4) days apart. If the newspaper used be a weekly paper, then in two successive issues thereof. The expense of such publication shall be paid by the applicant, and the Commission shall have the right to require from the applicant a deposit with it of the estimated amount prior to the making of such publications.

"On the completion of such publication, and if there shall be opposition to the granting of such application, the Commission shall set

a hearing on the application and give written notice to all interested parties of the time and place of the hearing, allowing reasonable time and opportunity for interested parties to be so heard.

"The application shall be acted on by the Commission within not exceeding twenty (20) days from the completion of the giving of such notice unless for good cause the Commission shall postpone action thereof. The application shall be finally acted on by the Commission within not exceeding sixty (60) days from the date of the filing of the application.

"The application shall state the days on which such racing is desired to be conducted; it shall describe the place and race track or course at which the races are to be conducted; it shall be in such form and supply such facts as the Commission shall prescribe, and such application shall be verified. If the applicant is eligible to receive a license under the provisions of this law, it shall be the duty of the Racing Commission to fix the racing days as it determines shall be allotted to such applicant, and the Commission shall issue a license for the holding of the meeting or meetings so sought to be held. The license issued shall describe the place and track or race course at which the licensee is authorized to hold such meeting or meetings, and the authority conferred in any one license shall be limited to a twelve (12) months period from the date of the license; provided, however, the Commission may in its discretion for good cause, to be shown in writing by the applicant, issue such license for a three (3) year period from the date thereof. The rights granted by the license shall not be assignable, except on application to the Commission for authority so to do, and the permission of the Commission obtained.

"The licensee shall pay to the Commission in advance, as a condition of granting of the license, a license fee for each race meeting authorized to be held, the amounts respectively thus stated, to-wit:

"If a race meet is to be conducted in a city or town of a population not exceeding three thousand (3,000)

inhabitants, or within fifteen (15) miles thereof, such license fee shall be One Hundred (\$100.00) Dollars; if in a city of more than three thousand (3,000) and not exceeding ten thousand (10,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Two Hundred (\$200.00) Dollars; if in a city of more than ten thousand (10,000) and not exceeding twenty thousand (20,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Five Hundred (\$500.00) Dollars; if in a city of more than twenty thousand (20,000) and not exceeding fifty thousand (50,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of One Thousand (\$1,000.00) Dollars; if in a city of more than fifty thousand (50,000) and not exceeding one hundred thousand (100,000) inhabitants, or within fifteen (15) miles thereof, such license fee shall be the sum of Fifteen Hundred (\$1,500.00) Dollars; and if in a city of more than one hundred thousand (100,000) inhabitants, or within twenty-five (25) miles thereof, such license fee shall be the sum of Two Thousand (\$2,000.00) Dollars; such population to be determined by the last preceding census of the United States.

"The license fees so received by the Racing Commission shall be promptly remitted to the Treasurer of the State of Texas through the State Comptroller of Public Accounts, and shall become and be a part of the Special Racing Fund hereinafter mentioned.

"Cancellation, for any cause authorized under this Act, shall not entitle the licensee to a refund of the fee or any part thereof paid for such license.

"The Commission may within its discretion limit the issuance of licenses to one per county in any one calendar year.

"The license issued shall expressly provide that the licensee shall, in addition to the license fees paid, remit to the Treasurer of the State of Texas, through the State Comptroller, at the end of each racing meet, or sooner if directed by the Racing Commission, such amounts as are hereinafter provided,

received as commission or compensation by the licensee, as authorized by this Act. This fund, when received by the Treasurer, shall be held by him and credited as a Special Racing Fund.

"The expenses incurred and authorized by virtue of this Act shall be payable out of the Special Racing Fund, not otherwise, and so much thereof as may be necessary is hereby appropriated and all amounts shall be paid upon accounts approved by the Chairman of the Racing Commission and warrants drawn against said fund by the Comptroller on the State Treasury.

"The Treasurer of the State of Texas, in December of each year, shall make a complete statement of the amount he has received within the calendar year under the provisions of this Act. After there shall have been charged against this fund the theretofore paid out operating expenses of the Racing Commission in that year as herein authorized, and the additional amount which the Racing Commission shall estimate as being required to be paid out in that year, and, in addition thereto, such amount as the said Racing Commission shall estimate as the expenses for the operating of the Commission for the next succeeding calendar year, the amount then remaining in this fund shall be held for and disbursed thus, viz:

"After providing for the operating expenses of the Racing Commission as aforesaid, an amount equal to twenty-five per cent (25%) of the funds remaining in the Special Racing Fund shall by the Treasurer of the State of Texas be paid into and credited to the State Available School Fund of Texas as provided by the Constitution of the State of Texas. An amount equal to twenty per cent (20%) of the funds then remaining in the Special Racing Fund shall be used by the Board of Control of the State of Texas to purchase, transport, and deliver for distribution well-bred and approved stallions and jacks throughout the State of Texas, and in connection therewith, defray the actual reasonable expense incident to the purchase, transportation and maintenance of such animals, in order thereby to promote the breeding of

better livestock in the State of Texas. After deducting from said Special Racing Fund the operating expenses of the Racing Commission as aforesaid, and after deducting from said Special Racing Fund the said twenty-five per cent (25%) going to the State Available School Fund and after deducting the said twenty per cent (20%) to be used by the Board of Control of the State of Texas as aforesaid, the balance remaining in said Special Racing Fund, so far as it may be required, shall be used for the payment of the appropriations by the Legislature for the support and maintenance of the State Department of Agriculture as said appropriations for the Department shall be fixed and allowed by the Legislature of the State of Texas from time to time. It is further provided that any excess left in the Special Racing Fund shall be by the State Treasurer transferred to and become a part of the 'Texas Old Age Assistance Fund.'

"Subsection 5a. The licensee shall keep an accurate record of all receipts and disbursements during any racing meet authorized by the Texas Racing Commission to be conducted by said licensee, which books and records shall at all reasonable times be open to inspection of the Comptroller of Public Accounts of the State of Texas, and to the Texas Racing Commission or its duly qualified agents; and at the close of each racing meet held by such licensee, or sooner if directed by the Racing Commission, he shall remit to the Treasurer of the State of Texas through the Texas Racing Commission as follows: Where the pari-mutuel turnover is not more than One Hundred Thousand (\$100,000.00) Dollars, one-fourth ($\frac{1}{4}$) of the ten (10%) per cent deducted by such licensee from the contributions of purchasers of certificates on horses to run first, second, and/or third in any given race; and where the pari-mutuel turnover is more than One Hundred Thousand (\$100,000.00) Dollars for any such meet, thirty (30%) per cent of the ten (10%) per cent deducted by such licensee from the contributions of purchasers of certificates on horses to run first, second, and/or third in any given race. In addi-

tion to the above tax, there is also levied a tax of one (1%) per cent upon the gross amount received from the sale of pari-mutuel tickets, which sum shall be deducted by the licensee and remitted to the State Treasurer in the same manner as are remitted the other taxes herein provided for. One-fourth (1-4) of the revenue from said gross receipts tax shall be credited to the Available School Fund, and three-fourths (3-4) shall be credited to the Old Age Assistance Fund. Said one (1%) per cent gross receipts tax shall be in addition to the ten (10%) per cent 'take' deducted by the licensee. The licensee is hereby constituted trustee for the State of Texas to collect and remit the sums provided herein, and such sums shall constitute and be a trust fund belonging to the State of Texas. Failure of any person to collect and remit any sums prescribed herein in accordance herewith shall constitute the offense of embezzlement, and upon conviction thereof, such person shall be punishable therefor as the law prescribes.

"Subsection 5b. This section shall become effective December 1, 1936.

"Subsection 5c. All laws or parts of laws in conflict herewith are expressly repealed."

Sec. 6. Every person, firm, association of persons, or corporation owning or operating any place of amusement which charges a price or fee for admission, including exhibitions in theaters, motion picture theaters, opera halls, and including horse racing, dog racing, motorcycle racing, automobile racing and like contests and exhibitions, and including dance halls, night clubs, skating rinks and any and all other places of amusements not prohibited by law, shall file with the State Comptroller a quarterly report on the 25th day of January, April, July and October for the quarter ending on the last day of the preceding month; said report shall show the gross amount received and the price or fee for admission; (provided, however, theaters, motion picture theaters, operas, and other like amusements where the admission charge is less than Fifty-one (51) cents per person, and where no tax is due hereunder, shall be relieved from the filing of a report and the payment of a tax levied under the

provisions of this section). Said person, firm, association of persons, or corporation, at the time of making such report, shall pay to the Treasurer of this State a tax in rates and amounts as follows:

"1. A tax of One (1) Cent on each Ten (10) Cents or each fractional part thereof paid as admission to theaters, motion picture theaters, operas and like amusements where the admission charged is in excess of Fifty-one (51) Cents per person.

"2. A tax of One (1) Cent on each Ten (10) Cents or each fractional part thereof paid as admission to horse racing, dog racing, motorcycle racing, automobile racing and like mechanical or animal contests and exhibitions. This subsection shall be effective on December 1, 1936.

"3. A tax of One (1) Cent on each Ten (10) Cents or fractional part thereof paid as admission to dance halls, night clubs, skating rinks and any and all other like places of amusements, contests and exhibitions.

"4. On amounts paid for admission by season ticket, subscription or lease for admission to any place of amusement, a tax equivalent to Ten (10) per centum of the amount paid therefor, provided a single admission to the place of amusement would be subject to taxation under the foregoing provisions.

"5. On all passes or complimentary tickets to any place of amusement where a tax on admissions is levied under this Section of this Act a tax equivalent to One (1) Cent on each Ten (10) Cents or each fractional part thereof charged as admission where the admission charge to such place of amusement is in excess of Fifty-one (51) Cents per person.

"6. All the revenues derived under and by virtue of this Section shall be credited by the Treasurer, one-fourth (1-4) to the Available School Fund and three-fourths (3-4) to the Texas Old Age Assistance Fund."

Article IV.

Section 1. That Article 7070, Revised Civil Statutes, 1925, be and the same is hereby amended so as to read hereafter as follows:

"Article 7070. (a) Each individual, company, corporation or association owning, operating, managing or con-

trolling any telephone line or lines or any telephones within this State, and charging for the use of the same, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller, under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and one-half per cent (1 1-2%) of the gross receipts, as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand five hundred (2,500) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to one and three-fourths per cent (1 3-4%) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand five hundred (2,500) inhabitants and not more than ten thousand (10,000) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to two per cent (2%) of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants according to the last preceding Federal census.

"(b) No city or other political subdivision of this State by virtue of the tax imposed by this Article shall have the right to impose any occupation tax on any person, corporation, or association required to pay the occupation tax under the same; and provided further, that nothing in this Article shall be construed as prohibiting a city from imposing local franchise taxes on the

companies required to pay the tax levied in this Article."

Sec. 2. That Article 7059, Revised Civil Statutes, 1925, be and the same is hereby amended so as to read hereafter as follows:

"Article 7059. Each individual, company, corporation or association owning, operating, controlling or managing any telegraph lines in this State, or owning, operating, controlling or managing what is known as wireless telegraph stations, for the transmission of messages or aerograms and charging for the transmission of such messages or aerograms, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller under oath of the individual, or of the president, treasurer or superintendent of such companies, corporations or associations, showing the gross amount received from all business within this State during the preceding quarter, in the payment of telegraphic or aerographic charges, including the amount received on full rate messages and aerograms and half rate messages and aerograms, and from the lease or use of any wires or equipment within the State during said quarter. Said individuals, companies, corporations and associations, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to three and three-fourths per cent (3 3-4%) of said gross receipts as shown by said report.

"No city or other political subdivision of this State by virtue of the tax imposed by this Article shall have the right to impose any occupation tax on any individual, company, corporation or association required to pay the occupation tax under the same; and provided further, that nothing in this Article shall be construed as prohibiting a city from imposing local franchise taxes on the companies required to pay the tax levied in this Article."

Sec. 3. That Article 7060, Revised Civil Statutes of 1925, as amended Chap. 34, Acts 5th C. S. 41st Leg., be and the same, is hereby amended so as to read hereafter as follows:

"Article 7060. Each individual, company, corporation or association, owning, operating or managing or controlling any gas, electric light,

electric power or water works, or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power or water, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power or water for the quarter next preceding. Said individual, company, corporation or association, at the time of making said report for any such incorporated town or city of twenty-five hundred (2500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last United States Census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to seven-tenths of one per cent (0.7 of 1%) of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last United States Census next preceding the filing of said report, the said individual, company, corporation or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one and three-eighths per cent (1 3-8%) of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power or water works or water and light plant within this State owned and operated by any city or town, nor to any county or Water Improvement or Conservation District. Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation or association, and distributed by another, the tax shall be paid by the distributor alone.

"No city or other political subdivision of this State by virtue of the

tax imposed by this Article shall have the right to impose any occupation tax on any individual, company, corporation or association required to pay the occupation tax under the same; and provided further, that nothing in this Article shall be construed as prohibiting a city from imposing local franchise taxes on the companies required to pay the tax levied in this Article."

Sec. 4. That Section 2 of Chapter 162, Acts 43rd Legislature, Regular Session, as amended by Section 1, Chapter 12, Acts 1st Called Session of the 43rd Legislature, shall be amended to hereafter read as follows:

"Sec. 2. (1) There is hereby levied an occupation tax on oil produced within this State of two and three-quarters (2 3-4) cents per barrel of forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be two and three-quarters (2 3-4%) per cent of the market value of said oil whenever the market value thereof is in excess of One (\$1.00) Dollar per barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums, or other things of value paid therefor or which such oil will reasonably bring, if produced in accordance with the laws, rules and regulations of the State of Texas.

"(2) The tax hereby levied shall be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

"(3) The purchaser of oil shall pay the tax on all oil purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided, that if oil produced is not sold during the month in which

produced, then said producer shall pay the tax at the same rate and in the manner as if said oil were sold.

"(4) The tax levied herein shall be paid monthly on the 25th day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

"(5) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the 25th of the month immediately following, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

"(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests, and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due.

"(7) The taxes herein provided for, when paid shall be, and hereby are, allocated as follows, to-wit:

"One-half of said tax when and as received by the Comptroller shall be paid to the State Treasurer of Texas and be placed to the credit of the Public School Fund, and one-half of such taxes when and as received by the Comptroller shall be paid to the State Treasurer to be placed to the credit of the General Fund of the State."

Sec. 5. That Article 7064, Revised Civil Statutes of 1925, be amended so as to hereafter read as follows:

"Article 7064. Insurance Companies. Every insurance corporation, Lloyds, or reciprocals, and any other organization or concern transacting the business of fire, marine, marine inland, accident, credit, title, live stock, fidelity, guaranty, surety, casualty, or any other kind or character of insurance business other than the business of life insurance, within this State, and other than fraternal benefit associations, at the time of filing its annual statement, shall report to the Commissioner of Insurance the gross amount of premiums received in the State upon property, and from persons residing in this State during the preceding year, and each of such insurance carriers shall pay an annual tax upon such gross premium receipts as follows: Shall pay a tax of three and twenty-five hundredths per cent (3.25%), provided, that any such insurance carriers doing two or more kinds of insurance business herein referred to shall pay the tax herein levied upon its gross premiums received from each of said kinds of business; and the gross premium receipts where referred to in this law are understood to be the premiums receipts reported to the Commissioner of Insurance by the insurance carriers, less return premiums paid policy holders, and the premium paid for re-insurance in companies authorized to do business in this State. Upon receipt by him of sworn statements, showing the gross premium receipts by such insurance carriers, the Commissioner shall certify to the State Treasurer the amount of taxes due by each insurance carrier, which tax shall be paid to the State Treasurer on or before the first of March following, and the receipt of the Treasurer shall be evidence of the payment of such taxes. No such insurance carrier shall receive a permit to do business in this State until such taxes are paid. If any such insurance carrier shall have as much as one-fourth of its entire assets, as shown by said sworn statement, invested in any or all of the following securities: Real estate in this State, bonds of this State or of any county, incorporated city or town of this State, or other property in this State in which by law such insurance carriers may invest their funds, then the annual tax of any such insurance carriers shall be one and one-fourth per cent

(1 1-4%) of its said gross premium receipts; and if any such insurance carrier shall invest as aforesaid as much as one-half of its assets, then the annual tax of such insurance carrier shall be five-eighths of one per cent (5-8 of 1%) of its gross premium receipts, as above defined. No occupation tax shall be levied on insurance carriers, herein subjected to a gross premium receipt tax, by any county, city, or town. All mutual fraternal benevolent associations, now or hereafter doing business in this State under the lodge system and on the assessment plan, whether organized under the laws of this State or a foreign State or country, are exempt from the provisions of this Article. The taxes aforesaid shall constitute all taxes and license fees collectable under the laws of this State against any such insurance carriers and no other occupation or other taxes shall be levied on or collected from any insurance carrier by any county, city or town, but this law shall not be construed to prohibit the levy and collection of State, county, and municipal taxes upon the real and personal property of such carrier. Purely co-operative or mutual fire insurance companies carried on by the members thereof solely for the protection of their own property, and not for profit, shall be exempt from the provisions of this law; however, foreign assessment life and casualty companies admitted to do business in Texas, under Chapter 5, Title 78, R. S. 1925, shall also pay taxes under and in accordance with the provisions of this Article."

Sec. 5a. Sec. 17, Chapter 40, Acts 41st Legislature, First Called Session, as it relates to payment of taxes, is hereby repealed.

Sec. 5b. That a new Article be added to Chapter 2, Title 122, Revised Civil Statutes, to be called Article 7064a, to read as follows:

"Article 7064a. Every group of individuals, society, fraternal benefit society, association, or corporation domiciled in the State of Texas transacting the business of life, accident, or life and accident, health and accident insurance for profit, or for mutual benefit or protection, shall at the time of filing its annual statement, report to the Commissioner of Insurance the gross amount of prem-

iums received from or upon the lives of persons residing or domiciled in this State during the preceding year and each of such groups of individuals, society, fraternal benefit society, association, or corporation shall pay an annual tax of one-half of one per cent (1-2 of 1%) of such gross premium receipts, provided, however, that this tax shall not apply to local mutual aid associations. If any such group of individuals, society, fraternal benefit society, association, or corporation does more than one kind of insurance business, then it shall pay the tax herein levied upon the gross premium from each kind of insurance written; the provision of this Act shall not apply to fraternal insurance organizations or societies that limit their membership to one occupation. The report of the gross premium receipts shall be made upon the sworn statement of two principal officers. Deductions from the gross premium receipts shall be allowed any group of individuals, society, fraternal benefit society, association, or corporation for premiums paid for re-insurance in companies authorized to do business in Texas, and the acquisition costs of the first year's premiums. Upon receipt by him of the sworn statements above provided for, the Commissioner shall certify to the State Treasurer the amount of taxes due by each of such group of individuals, society, fraternal benefit society, association or corporation, which tax shall be paid to the State Treasurer on or before the first of March following and the receipt of the Treasurer shall be evidence of the payment of such taxes. No such group of individuals, fraternal benefit society, association, or corporation shall receive a permit to do business until such taxes are paid. The taxes aforesaid shall constitute all taxes and license fees collectible under the laws of this State against any such insurance organization and no other occupation or other taxes shall be levied or collected by any county, city or town except State, county and municipal ad valorem taxes upon the real and personal property of such insurance organizations."

Sec. 5c. That Article 4769 of the Revised Civil Statutes of 1925 be amended so as to hereafter read as follows:

"Article 4769. Report Showing Gross Receipts. Each life insurance company not organized under the laws of this State, transacting business in this State, shall annually, on or before the first day of March, make a report to the Commissioner, which report shall be sworn to by either the president or vice president and secretary or treasurer of such company, which shall show the gross amount of premiums collected during the year ending on December 31, preceding, from citizens of this State upon policies of insurance. Each such company shall pay annually an occupation tax equal to three and three-fourths (3 3-4%) per cent of such gross premium receipts. When the report of the investment in Texas securities, as defined by law, of any such companies as of December 31 of any year shall show that it has invested on said date as much as thirty per cent (30%) of its total Texas reserves as defined by law, in promissory notes or other obligations secured by mortgage, deed of trust, or other lien on Texas real estate and/or in loans to residents or citizens of Texas secured by the legal reserve on the respective policies held by such borrowers, the rate of occupation tax shall be reduced to three and one-fourth per cent (3 1-4%); and when such report shall show that such company has so invested on said date as much as sixty per cent of its total Texas reserve, the rate of such occupation tax shall be reduced to two and nine-tenths per cent (2.9%); and when such report shall show that such company has so invested, on said date, as much as seventy-five per cent of its total Texas reserve, the rate of such occupation tax shall be reduced to two and five-tenths per cent (2.5%). All such companies shall, in any event, make the investments in Texas securities in proportion to the amount of Texas reserves as required by law. Such occupation taxes shall be for and on account of the business transacted within this State during the calendar year in which such premiums were collected, or for that portion thereof during which the company shall have transacted business in this State. This Act shall not in any manner affect the obligation for the payment of any taxes that have ac-

crued and that are now due or owing, but the obligation as now provided by law for the payment of such taxes shall continue in full force and effect."

Sec. 5d. Amend Article 4858, Revised Civil Statutes, 1925, so that it shall hereafter read as follows:

"Article 4858. Taxation: Except as to premium on gross receipt taxes levied by this Article or other provisions of laws of this State, fraternal benefit societies organized or licensed under this chapter are hereby declared to be exempt from all and every State, county, municipal and school district taxes other than taxes on real estate and office equipment when same is used for other than lodge purposes, inasmuch as such societies are charitable and benevolent institutions.

"Each fraternal benefit society not organized under the laws of this State but transacting business in this State shall, when it makes its annual report to the Commissioner, make a report, which shall be sworn to by two executive officers of the society, showing the total amount of premiums or contributions made to the society for or on account of its policies or beneficial certificates, providing for death or other disability benefits, during the year ending December 31st, preceding, for or on the lives of citizens of this State. Each such society or association shall pay annually at the time of making such report, an occupation tax equal to three and three-quarter (3.75%) per cent of such total contributions. At the time of making the report, as above required, each society or association shall also file a report showing the amount of the reserve accumulated and on hand with respect to its beneficial certificates on the lives of citizens or residents of this State. Each society or association shall also show in such report the amount it has invested in Texas securities as that term is defined in Chapter 4, Title 78, Revised Civil Statutes, 1925, and amendments thereto. When such report shall show that on December 31st, preceding, such society or association had invested as much as thirty per cent of the reserves above mentioned in promissory notes or other obligations secured by mortgage, deed of trust or other lien on Texas real estate and/or in loans to Texas citizens or

residents secured solely by the legal reserve on the respective policies or certificates held by such borrowers, the rate of such tax shall be reduced to three and one-quarter per cent (3.25%) and when such report shall show that as much as sixty per cent of such reserve has been so invested the rate of such tax shall be reduced to two and nine-tenths per cent (2.9%), and when such report shall show that as much as seventy-five per cent of such reserve has been so invested the rate of such tax shall be reduced to two and one-half per cent (2.5%). No such society or association shall receive a license or permit to do business for the year in which such tax is due until same has been paid."

Sec. 6. That Section 40A of Article 7047, Revised Civil Statutes, 1925, as amended by Acts 1931, Forty-second Legislature, page 355, Chapter 212, Section 1, be and the same is hereby amended so as to read hereafter as follows:

"40A. Sulphur producers: Each person who owns, controls, manages, leases, or operates, any sulphur mine, or mines, wells or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly on the first day of January, April, July and October of each year a report to the Comptroller sworn to by such person before an officer authorized to administer oaths in this State, or if such person be other than an individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date an amount equal to One Dollar and Three Cents (\$1.03) per long ton, or fraction thereof, of all sulphur provided by said person within the State of Texas during said quarter. Should any person subject to the occupation tax herein levied begin business after the beginning of a quarter, the amount of tax which such person or concern shall pay for the first quarter immediately succeeding the quarter in which the business was begun shall

be ascertained by taking the total number of tons produced within the last quarter, dividing the same by the number of days such person or concern was engaged in the business during said preceding quarter and multiplying the quotient by ninety, and multiplying the product by One Dollar and Three Cents (\$1.03). Said tax shall be in lieu of the tax imposed by H. B. No. 2, Chapter 74, Acts of the 5th Called Session of the 41st Legislature, but said tax shall be paid in the same manner, subject to the same penalties, and under the same conditions as provided in said Act, except that fifty-five cents (55c) of said funds shall go into the Available School Fund and the remainder to the General Fund."

Sec. 7. Amend Article 7047, Revised Civil Statutes, 1925, by adding a new section which shall be known as Section 45, and read as follows:

Sec. 45. (a). There is hereby levied an occupation tax on every person in this State manufacturing or producing carbon black; said tax to be one-twelfth of one cent per pound on all carbon black produced or manufactured where the market value is four cents per pound or less and three (3%) per cent of the value of all carbon black produced or manufactured where the average market value is in excess of four cents per pound. The market value of carbon black, as that term is herein used, shall be the actual market value thereof plus any bonus or premium or other thing of value paid therefor, or the actual value which carbon black does reasonably bring in the due course of trade.

(b). The tax herein imposed shall be due and payable at the office of the Comptroller at Austin on the twenty-fifth day of each succeeding month, based on the business done the preceding calendar month, and on or before said date such manufacturer or producer shall make and deliver to the Comptroller a verified report showing all carbon black manufactured, produced and sold upon which a tax accrues, and such other information as the Comptroller may require.

(c). A complete record of the business done, together with any other information the Comptroller may require, shall be kept by such

distributor; which said record shall be open to the Comptroller, Attorney General, Auditor and their representatives; the Comptroller shall adopt rules and regulations for the enforcement hereof.

(d). In the event any person engaged in the business of producing or manufacturing carbon black in this State shall become delinquent in the payment of taxes herein imposed, the Attorney General may enjoin such person from producing or manufacturing carbon black until the delinquent tax is paid, and the venue of any such suit for injunction is hereby fixed in Travis County.

(e). If any person shall violate any of the provisions hereof, he shall forfeit to the State of Texas as a penalty not less than Twenty-five Dollars (\$25.00), nor more than One Thousand Dollars (\$1,000.00) for each violation and each day's violation shall constitute a separate offense. If any person shall fail to pay said tax promptly, he shall forfeit two per cent (2%) thereof as penalty, and after the first twenty days he shall forfeit an additional eight per cent (8%). Delinquent taxes shall draw interest at the rate of eight per cent (8%) from due date. The State shall have a prior lien for all delinquent taxes, penalties and interest, on all property used by the producer or manufacturer in his business of manufacturing and producing carbon black.

(f) The term "Carbon Black" as herein used includes all black pigment produced in whole or in part from natural gas, casing head gas or residue gas by the impinging of a flame upon a channel disk or plate, and the tax herein imposed shall reach all products produced in such manner.

Sec. 8. That Section 3, of Chapter 73, Acts of the 42nd Legislature, be and the same is hereby amended so as to read as follows:

"Sec. 3. A tax shall be paid by each such producer on the amount of gas produced and saved within this State, and on gas imported into the State, upon the first sale thereof in intrastate commerce upon the following basis:

"A tax equivalent to three per cent (3%) of the market value of the total amount of gas produced

and saved within this State, or sold, if imported into this State, at the actual market value thereof, as and when produced. Provided, however, that if any gas is imported into this State from another State, in which latter State a severance, occupation or excise tax is imposed, the person importing such gas shall not be required to pay another tax thereon under the provisions of this Act.

"The tax hereby levied shall be a liability of the producer of gas and it shall be the duty of such producer to keep accurate records of all gas produced, making monthly reports under oath as hereinafter provided.

"The purchaser of gas shall pay the tax on all gas purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasury.

"Provided, that if gas produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the manner as if said gas were sold.

"The tax herein levied shall be paid monthly on the 25th day of each month on all gas produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid; and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action."

Sec. 9. (a) Except as herein otherwise provided, there is hereby levied and assessed a tax of Ten (10) cents on each One Hundred (\$100.00) Dollars or fraction thereof, over the first Two Hundred (\$200.00) Dollars, on all notes and obligations secured by chattel mort-

gage, deed of trust, mechanic's lien contract, vendor's lien, conditional sales contract and all instruments of a similar nature which are filed or recorded in the office of the County Clerk under the Registration Laws of this State; providing that no tax shall be levied on instruments for an amount of Two Hundred (\$200.00) Dollars or less. After the effective date of this Act, except as hereinafter provided, no instrument creating a lien of any character to secure the payment of money, or reserving title to any property until the purchase price thereof shall have been paid, shall be filed or recorded by any County Clerk in this State until there has been affixed to such instrument stamps in accordance with the provisions of this section; and providing further that the provisions of this section shall not apply to renewals or extensions of any notes or obligations, and specifically shall not apply to refunding of existing bonds or obligations. And providing further this section shall not apply to notes and obligations or instruments securing same taken by or on behalf of the United States or any corporate agency or instrumentality of the United States Government in carrying out a governmental purpose as expressed in any Act of the Congress of the United States.

(b) Payment of the tax hereby levied shall be evidenced by affixing the stamps herein provided for, to all instruments included within the provisions of subdivision (a) of this section, and it shall be the duty of the State Treasurer to have engraved or printed the stamps necessary to comply with this section, and to sell the same to all persons upon demand and payment therefor. The stamps shall be of such design and denominations as to the Treasurer shall seem proper, and shall show the amount of the tax, the payment of which is evidenced thereby, and shall contain the words "Note Stamp." The State Treasurer shall be responsible for the custody and sale of such stamps and for the proceeds therefrom under his official bond.

Sec. 10 (a) Every person, firm, or corporation conducting a theatre, place of amusement, or any business enterprise in connection with the op-

eration of which a prize in the form of money or something of value is offered or given to one or more patrons of such theatre, place of amusement, or business enterprise, and not given to all patrons thereof paying the same charge for any certain service, commodity, or entertainment, shall make a verified monthly report on the 25th day of each month to the Comptroller of Public Accounts of the State of Texas, showing the amount of money so given in prizes and the value of all prizes or awards so given in connection with such business during the next preceding month.

(b) There is hereby levied a tax equal to twenty per cent (20%) of the value of all such money, prizes, and awards given in connection with the operation of each and all of the foregoing business enterprises, and at the time of making the report to the Comptroller of Public Accounts, the owner or operator of any such business shall pay to the State Treasurer such tax upon the total amount of money, prizes, and awards so given during the next preceding month. The tax herein levied shall be a joint liability of the owner and operator of such business, and, in the event any person engaged in any business operated in the manner hereinabove mentioned shall fail or refuse to pay said tax on or before the 25th day of each month, he shall forfeit to the State of Texas not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) for each violation, and each day's delinquency shall constitute a separate offense. The State of Texas shall have a prior lien for all delinquent taxes and penalties on all property used by the owner or operator of any such business, and the Attorney General of the State of Texas may file suit for the collection of such tax and penalties in any District Court of Travis County, Texas, and for the foreclosure of such lien, and may enjoin the operation of any such business until such tax is paid.

(c) Any person managing or controlling any business enterprise required to file a report under paragraph one hereof, who shall fail or refuse to file such report on or before the 25th day of each month, shall be deemed guilty of a mis-

demeanor and, upon conviction, shall be punished by fine of not less than Twenty-five (\$25.00) Dollars nor more than One Hundred (\$100.00) Dollars, and such punishment shall be in addition to the civil penalties herein provided for.

(d) The provisions of this Section shall not apply to enterprises operating under Chapter 10 of the Acts of the 43rd Legislature, First Called Session, and all amendments thereto, and nothing in this Section contained shall be construed to legalize or authorize the operation of any contest, practice or device now prohibited by law.

Sec. 11. (a) There is hereby levied an occupation tax upon the commercial producers of the following natural resources engaged in producing and severing from the soil and/or waters the following natural resources: ores, marble, and cinnabar ore. The tax levied is predicated upon the quantity severed and produced and shall be paid at the following rates:

1. On ores, 5c per ton of 2,000 lbs.
2. On marble, 10c per ton of 2,000 lbs.
3. On cinnabar ore, 10c per ton of 2,000 lbs.

(b) The tax imposed under the provisions of this Section shall be the primary liability of any person, firm, association, company or corporation owning, controlling, managing or leasing any natural resources who produces in any manner any of the natural resources upon which a tax is imposed herein by taking such natural resources from the earth or waters of this State. The producer of any of the natural resources upon which a tax is imposed under the provisions of this Section shall make such tax payments to the Treasurer of this State, as provided for by the other provisions of this Act.

(c) Each person, firm, association, company, or corporation who produces the natural resources on which a tax is imposed under the provisions of this Section shall make quarterly on the first days of January, April, July, and October of each year a report to the Comptroller, sworn to by such person, be-

fore an officer authorized to administer oaths in this State, or if such person be other than an individual, so sworn to by its president, secretary, or other duly authorized officer, on such forms as said Comptroller shall prescribe, showing the total quantity of natural resources produced by said producer during the quarter next preceding the date of the report, the county in which the natural resources are produced, the correct description of the properties from which the natural resources are produced, the correct name and address of the first purchaser of said natural resources, and the price received therefor, and such other information as the Comptroller may require, and at the time of making and filing said report, shall pay to the Treasurer of this State an occupation tax for the quarter ending on said date in amounts as imposed under the provisions of this Section.

(d) The term "commercial producer" is hereby defined as any person, firm, association, company or corporation which severs or produces any ores, marble, or cinnabar ore in excess of one thousand tons during any one calendar year.

(e) For the tax, penalties and interest herein provided for, the State shall have a prior and preferred all such natural resources. Said lien shall extend to and be enforceable against any property, either real or personal or both, owned by any person or persons made liable for the taxes herein levied, which property is not exempt from forced sale by reason of existing law or the Constitution of this State.

The reports required to be filed herein shall be filed not later than twenty-five (25) days after the quarter for which the tax herein levied is payable.

Sec. 12. All revenues derived and collected under the provisions of this Act, except where otherwise specifically allocated, shall be deposited one-fourth ($\frac{1}{4}$) to the credit of the Available School Fund, and the remainder to the credit of the General Revenue Fund of the State.

ARTICLE V

Sec. 1. If any provision or section of this Act is held unconstitutional or invalid, the same shall not

operate to defeat the whole Act, but all other parts shall stand and remain in full force and effect.

Sec. 2. The fact that additional moneys are required by the State of Texas for immediate expenditure in order to continue payments of Old Age Assistance grants in this State creates an emergency and imperative public necessity that the Constitutional provision requiring bills to be read on three several days in each House be suspended and the same is hereby suspended and that this Act take effect and be in force from and after its passage and it is so enacted.

Mr. Reed of Bowie raised the following point of order, against further consideration of the Conference Committee report on House Bill No. 8:

"I raise the point of order, on the Conference Committee report of House Bill No. 8, because it violates Article III, Section 40 of the Constitution.

When the Legislature is convened in Special Session there shall be no legislation upon subjects other than designated in the proclamation in the Governor's calling Special Session and presented to them by the Governor. The Conference Committee report on House Bill No. 8 on page 53, seeks to place one-half ($\frac{1}{2}$) of the tax on crude oil to the credit of the Public School Fund and one-half ($\frac{1}{2}$) of such tax to be placed to the credit of the General Fund. The question of raising additional revenue for the General Fund has not been submitted by the Governor."

REED of Bowie.

The Speaker overruled the point of order.

Mr. Lucas raised the following point of order:

"Mr. Speaker: I raise a point of order against further consideration of House Bill No. 8, because I believe it to be in conflict with Section 5, Article III, of the State Constitution, inasmuch as Subsection 11C, seeks to make a \$50,000 appropriation for the setting up of administrative machinery for the Old Age Assistance Commission; \$15,000 for additional duties placed upon the Comptroller of Public Accounts, and \$10,000 for the purpose of purchasing supplies, printing of stationery, etc.;

therefore is not within the Governor's call."

LUCAS.

The Speaker overruled the point of order.

Mr. Good moved that the report be adopted.

Mr. Bradbury submitted the following motion:

Mr. Speaker: I move that the Conference Committee report on House Bill No. 8 be rejected, and that the committee be instructed to delete from said report anything that would de-liberalize the Texas Old Age Assistance Act.

BRADBURY,
SPEARS,
READER,
NEWTON,
LUCAS,
FARMER,
GLASS,

Mr. Frazer moved the previous question on the pending motion, and the motion was duly seconded.

Question first recurring on the motion for the main question, yeas and nays were demanded.

The motion for the main question prevailed by the following vote:

Yeas—86

Adamson	Gray
Adkins	Hanna
Alsup	Hardin
Ash	Harper
Bradford	Head
Broadfoot	Herzik
Butler of Karnes	Hodges
Cagle	Hofheinz
Caldwell	Holland
Calvert	Hoskins
Collins	Huddleston
Colson	Hunt
Craddock	Hunter
Daniel	James
Davis	Jones of Atascosa
Davison of Fisher	Jones of Shelby
Davisson	Keefe
of Eastland	Knetsch
Dickison	Lanning
Dunagan	Lemens
Dunlap of Hays	Leonard
Dunlap of Kleberg	Lindsey
Duvall	Lotief
England	Lucas
Farmer	Luker
Ford	Mauritz
Frazer	McConnell
Fuchs	McKee
Glass	Moffett

Morris	Rogers
Nicholson	Rutta
Olsen	Smith
Padgett	Stanfield
Palmer	Stinson
Patterson	Stovall
Payne	Tarwater
Quinn	Tillery
Reader	Venable
Reed of Bowie	Waggoner
Reed of Dallas	Westfall
Riddle	Wood of Montague
Roach of Angelina	Worley
Roach of Hunt	Youngblood
Roark	

Nays—56

Aikin	Jackson
Alexander	Jones of Falls
Atchison	Jones of Wise
Bergman	King
Bradbury	Lange
Bridgers	Latham
Burton	Leath
Butler of Brazos	McCalla
Canon	McFarland
Celaya	McKinney
Colquitt	Moore
Cooper	Morrison
Cowley	Newton
Crossley	Petsch
Dwyer	Pope
Fain	Roberts
Fisher	Russell
Fox	Scarborough
Gibson	Sessions
Good	Settle
Graves	Spears
Greathouse	Steward
Hankamer	Tennyson
Harris of Archer	Thornton
Harris of Dallas	Walker
Hartzog	Wells
Hill	Wood of Harrison
Howard	Young

Absent

Jefferson	Morse
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Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

Question next recurring on the motion by Mr. Bradbury, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—80

Adamson	Alsup
Adkins	Bradbury

Bradford	Jones of Wise
Broadfoot	Keefe
Butler of Karnes	Knetsch
Cagle	Lanning
Caldwell	Lemens
Calvert	Lindsey
Canon	Lotief
Colquitt	Lucas
Colson	Luker
Craddock	McConnell
Daniel	McKee
Davis	Moffett
Davison of Fisher	Morris
Davisson	Newton
of Eastland	Olsen
Dickison	Padgett
Dunagan	Palmer
Dunlap of Hays	Pope
England	Quinn
Fain	Reader
Farmer	Reed of Bowie
Fox	Reed of Dallas
Frazer	Riddle
Fuchs	Roach of Hunt
Glass	Roark
Graves	Roberts
Hardin	Rogers
Harper	Rutta
Harris of Archer	Smith
Head	Spears
Herzik	Stovall
Hodges	Tarwater
Hofheinz	Tillery
Hoskins	Venable
Huddleston	Westfall
Hunter	Wood of Montague
James	Worley
Jones of Atascosa	Youngblood
Jones of Shelby	

Nays—63

Aikin	Hanna
Alexander	Harris of Dallas
Ash	Hartzog
Atchison	Hill
Bergman	Holland
Bridgers	Howard
Burton	Hunt
Celaya	Jackson
Collins	Jones of Falls
Cooper	King
Cowley	Lange
Crossley	Latham
Dunlap of Kleberg	Leath
Duvall	Leonard
Dwyer	Mauritz
Fisher	McCalla
Ford	McFarland
Gibson	McKinney
Good	Moore
Gray	Morrison
Greathouse	Morse
Hankamer	Nicholson

Patterson	Steward
Payne	Stinson
Petsch	Tennyson
Roach of Angelina	Thornton
Roane	Waggoner
Russell	Walker
Scarborough	Wells
Sessions	Wood of Harrison
Settle	Young
Stanfield	

Present—Not Voting

Butler of Brazos

Absent

Jefferson

Absent—Excused

Bourne

Hyder

Broyles

Shofner

PAIRED

Mr. Butler of Brazos, (present) who would vote "nay," with Mr. Broyles, (absent) who would vote "yea."

REASONS FOR VOTE

I voted against the motion made by Mr. Bradbury, because such an instruction to the committee at this late date would insure the end of this Session without any tax legislation having been passed for the purpose of paying any of the people on the rolls as old age pensioners. The question of deliberalization to my mind was secondary to the question of raising revenue for the purpose of paying the old age pensions to those who need it most. Also, at the time the motion was made by Mr. Bradbury, the Senate had already adopted the Free Conference Committee's report by a vote of "22 yeas" and "6 nays", indicative to my mind that the Senate Free Conference Committee would not recede from its position, and thereby insure the death of the tax bill on which we had voted.

WELLS

My reason for voting "Yea" on the Bradbury motion is because the Governor failed in his message authorizing the convening of the Third Called Session of the Forty-fourth Legislature, wherein was included only the raising of revenue for the Old Age Assistance, which I was in sympathy with and heartily approved; but when later he submitted the rewriting of the

Old Age Assistance Law including that in the bill for raising revenue, I opposed it. That cannot be done under the Constitution. Such a combination of two or more subjects cannot be included in one bill, only such as appropriation bills.

OLSEN

Mr. Roberts moved to reconsider the vote by which the motion by Mr. Bradbury prevailed.

Mr. James moved to table the motion to reconsider.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—76

Adamson	Hunter
Adkins	James
Alsup	Jones of Atascosa
Bradbury	Jones of Shelby
Bradford	Jones of Wise
Broadfoot	Keefe
Butler of Karnes	Knetsch
Cagle	Lanning
Caldwell	Lemens
Calvert	Lotief
Canon	Lucas
Colquitt	McConnell
Colson	McKee
Craddock	Moffett
Daniel	Morris
Davis	Newton
Davison of Fisher	Olsen
Davisson	Padgett
of Eastland	Palmer
Dickison	Quinn
Dunlap of Hays	Reader
England	Reed of Bowie
Fain	Reed of Dallas
Farmer	Riddle
Ford	Roach of Angelina
Fox	Roach of Hunt
Frazer	Roark
Fuchs	Rogers
Glass	Rutta
Graves	Smith
Hardin	Spears
Harper	Stovall
Harris of Archer	Tarwater
Head	Tillery
Herzik	Venable
Hodges	Westfall
Hofheinz	Worley
Hoskins	Youngblood
Huddleston	

Nays—65

Aikin	Ash
Alexander	Atchison

Bergman	Leonard
Bridgers	Lindsey
Burton	Luker
Celaya	Mauritz
Collins	McCalla
Cooper	McFarland
Cowley	McKinney
Crossley	Moore
Dunagan	Morrison
Dunlap of Kleberg	Morse
Duvall	Nicholson
Dwyer	Patterson
Fisher	Payne
Gibson	Petsch
Good	Pope
Gray	Roberts
Greathouse	Russell
Hankamer	Scarborough
Hanna	Sessions
Harris of Dallas	Settle
Hartzog	Stanfield
Hill	Steward
Holland	Stinson
Howard	Tennyson
Hunt	Thornton
Jackson	Waggoner
Jones of Falls	Walker
King	Wells
Lange	Wood of Montague
Latham	Young
Leath	

Present—Not Voting

Butler of Brazos

Absent

Jefferson Wood of Harrison

Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

PAIRED

Mr. Butler of Brazos (present), would vote "nay", with Mr. Broyles (absent), who would vote "yea".

REASONS FOR VOTE

I voted for the adoption of the Conference Report on H. B. No. 8 because in my opinion it was the only chance to raise additional revenue for Old Age Assistance. I have voted consistently for liberal pensions and for taxes to pay same, but it seems impossible to raise sufficient revenue to pay assistance to all entitled to it under the present law. I would rather pay those who are actually in need than to not pay any.

ASH

I voted against the adoption of the Conference Committee Report on House Bill No. 8 for a multiplicity of reasons, among which are the following:

1. The revenue-raising portion of said Committee Report is inadequate to meet the needs of the Old Age Pension Commission. This revenue-raising portion of said Bill was never fully considered by the House of Representatives and is honey-combed with inequalities and injustices. An example of which I point out in the following:

"The electrical utilities occupation tax is increased in said measure by a small percentage which will only raise approximately \$140,000.00 more than the present occupation tax on these utilities, when in equity and good conscience and in compliance with the Constitutional direction that all taxes should be uniform and equal, they should be increased by not less than \$3,000,000.00.

"2. The so-called 'Deliberalization' or Small Amendment to said Bill was added to said Bill by the Senate and Conference Committee despite the adoption by the House of Representatives of a resolution requesting that the Committee not include such amendment and with the members of the House of Representatives not being afforded an opportunity to express the views of their constituents on the matter.

"3. This bill, consisting of sixty-nine typewritten pages, was placed upon the members' desks for the first time this morning, and I do not believe that Legislation of this importance should be "railroaded" through the State Legislature without the careful, and even prayerful, consideration of the members of the Legislature."

CALDWELL.

I voted for the adoption of the Conference Committee report on House Bill 8, because it was the only chance to raise any revenue at this Session of this Legislature. I have voted consistently to try to raise the money to pay a liberal Old Age Pension, but due to the fact that it is impossible to get a decent revenue measure passed, I do not want it said that I labored here through ninety days and helped defeat the bill that would raise some revenue.

JONES of Falls.

Although I favor deliberalizing the Texas Old Age Assistance Law to the end that only "aged needy" citizens may qualify, I voted for the Bradbury motion to reject the Conference Committee on H. B. No. 8, because the bill as written by the conferees contains provisions violative of the expressed will of the House, and because the House was deprived of the right of amendment of the deliberalization feature of the report. Certainly the deliberalization of our present Old Age Assistance Law is of sufficient importance that the right of full discussion, consideration and amendment be allowed the members.

Further, I seriously doubt the Constitutionality of House Bill No. 8 as written by the committee and further, that revenues that it would raise if adopted, will be far from sufficient to pay assistance to the "aged needy" people of Texas.

RUTTA.

Mr. Roark submitted the following motion:

I move to instruct the House conferees on House Bill No. 8 to vote against and oppose in committee the adding of any General Gross Receipts Tax or any General Sales Tax in the present House Bill No. 8.

ROARK,
JONES of Wise,
AIKIN,
READER,
KEEFE.

Mr. Pope submitted the following substitute for the motion by Mr. Roark:

I move that the Conference Committee on House Bill No. 8 include the amendment set out on pages 116 to 124 of the House Journal.

POPE.

Mr. Morse moved that the House recess to 7:30 o'clock p. m., today.

The motion was lost.

Question recurring on the substitute motion by Mr. Pope, yeas and nays were demanded.

The substitute motion was lost by the following vote:

Yeas—26

Bergman	Davis
Butler of Karnes	Duvall
Celaya	Good
Craddock	Hankamer
Crossley	Hardin

Jones of Atascosa
Jones of Shelby
Knetsch
Lindsey
Luker
McKinney
Moore
Olsen

Petsch
Pope
Riddle
Rogers
Russell
Steward
Thornton
Venable

Nays—107

Adamson	James
Aikin	Jones of Falls
Alexander	Jones of Wise
Alsup	Keefe
Ash	King
Atchison	Lange
Bradbury	Lanning
Bradford	Latham
Bridgers	Leath
Broadfoot	Lemens
Burton	Lotief
Butler of Brazos	Lucas
Cagle	Mauritz
Calvert	McCalla
Canon	McConnell
Collins	McFarland
Colquitt	McKee
Colson	Moffett
Cooper	Morris
Cowley	Morrison
Daniel	Morse
Davison of Fisher	Newton
Davisson	Nicholson
of Eastland	Padgett
Dickison	Palmer
Dunlap of Hays	Patterson
Dwyer	Payne
England	Quinn
Fain	Reader
Farmer	Reed of Bowie
Fisher	Reed of Dallas
Ford	Roach of Angelina
Fox	Roark
Fuchs	Roberts
Gibson	Rutta
Glass	Sessions
Graves	Settle
Gray	Smith
Greathouse	Spears
Hanna	Stanfield
Harper	Stinson
Harris of Archer	Stovall
Harris of Dallas	Tarwater
Hartzog	Tennyson
Head	Tillery
Herzik	Waggoner
Hodges	Walker
Hofheinz	Wells
Holland	Westfall
Hoskins	Wood of Harrison
Howard	Wood of Montague
Huddleston	Worley
Hunter	Young
Jackson	Youngblood

Absent

Adkins	Hunt
Caldwell	Jefferson
Dunagan	Leonard
Dunlap of Kleberg	Roach of Hunt
Frazer	Scarborough
Hill	

Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

Mr. Lucas submitted the following substitute for the motion by Mr. Roark:

I move that the Conference Committee on House Bill No. 8 be instructed that they may include in such bill a reasonable selective luxury tax on luxuries only.

LUCAS

Mr. McKee moved to table the substitute motion by Mr. Lucas.

Question recurring on the motion to table, yeas and nays were demanded.

The motion to table prevailed by the following vote:

Yeas—102

Adamson	Fisher
Adkins	Ford
Aikin	Fox
Alexander	Gibson
Alsup	Glass
Ash	Greathouse
Atchison	Hanna
Bradbury	Hardin
Bradford	Harris of Archer
Bridgers	Harris of Dallas
Broadfoot	Hartzog
Burton	Head
Cagle	Herzik
Caldwell	Hodges
Canon	Hofheinz
Celaya	Holland
Collins	Hoskins
Colquitt	Howard
Cooper	Huddleston
Cowley	Hunter
Craddock	Jackson
Crossley	James
Daniel	Jones of Falls
Davison of Fisher	King
Davisson	Lanning
of Eastland	Latham
Dickison	Leath
Dunlap of Hays	Lemens
Duvall	Leonard
England	Lindsey
Farmer	Mauritz

McCalla	Rutta
McConnell	Sessions
McFarland	Settle
McKee	Smith
McKinney	Spears
Moore	Stanfield
Morris	Steward
Morrison	Stinson
Newton	Stovall
Nicholson	Tarwater
Padgett	Tennyson
Palmer	Tillery
Patterson	Venable
Quinn	Waggoner
Reader	Wells
Reed of Bowie	Westfall
Reed of Dallas	Wood of Harrison
Roach of Angelina	Wood of Montague
Roach of Hunt	Young
Roark	Youngblood
Russell	

Nays—30

Butler of Karnes	Lange
Calvert	Lotief
Colson	Lucas
Davis	Luker
Dwyer	Morse
Fain	Olsen
Fuchs	Payne
Graves	Petsch
Gray	Pope
Hankamer	Riddle
Harper	Rogers
Hill	Scarborough
Jones of Shelby	Thornton
Jones of Wise	Walker
Keefe	Worley

Absent

Bergman	Hunt
Butler of Brazos	Jefferson
Dunagan	Jones of Atascosa
Dunlap of Kleberg	Knetsch
Frazer	Moffett
Good	Roberts

Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

Mr. Morse called for a division of the questions in the motion by Mr. Roark.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

The Speaker signed, in the presence of the House, after giving due notice thereof, and their captions had been read severally, the following enrolled bills and resolutions:

H. B. No. 41, "An Act fixing the compensation of County Commissioners in every county having a population of not less than Twelve Thousand, Seven Hundred and Fifty-seven (12,757) nor more than Twelve Thousand, Eight Hundred (12,800) inhabitants according to the last preceding United States Census where the taxable values in said counties are not less than Seven Million Dollars (\$7,000,000) nor more than Seven Million, Two Hundred and Twenty-five Thousand Dollars (\$7,225,000); prescribing how the same shall be paid; making the provisions of this Act cumulative of all existing laws and in no respect repealing other laws affecting any other county or counties, and declaring an emergency."

H. B. No. 51, "An Act to provide for the assumption of the bonded indebtedness by districts whose boundaries have been extended or enlarged; prescribing the method of holding elections on the question of the assumption of such indebtedness and the levying and collecting of a tax to pay the principal and interest thereof; imposing the duty on the governing board of any such district to levy and collect such taxes; validating assumption elections heretofore held in instances wherein said elections were carried by a majority vote; declaring such indebtedness to be the indebtedness of such district as enlarged or extended; imposing the duty on the governing board of any such district to levy and collect taxes to pay the principal and interest thereof; making applicable to such indebtedness the law authorizing school districts to issue refunding bonds; validating refunding procedure heretofore attempted by such districts; providing the provisions of this Act shall not apply in the validity of such election or the validity by such governing board is in litigation at the time this Act becomes effective; providing that a successor district shall be liable for the indebtedness of its predecessor district in instances wherein the boundaries of said districts are coterminous without the necessity of an election of any character; imposing the duty on the governing board of such district to levy and collect taxes to pay principal and interest of such indebtedness; validating the attempted issuance of refunding bonds heretofore authorized by

such districts; and declaring an emergency."

Senate Bill No. 5, "An Act creating and providing for an Unemployment Compensation System for the State of Texas; imposing a tax on employers of eight or more persons; making certain exemptions; providing for the enforcement and administration of this Act, and prescribing penalties and priorities in aid thereof; authorizing and providing for certain expenditures and disbursements; creating and providing for the Unemployment Compensation Commission; prescribing its powers and duties; providing for a State Employment Service; defining certain terms; providing that the Act shall be severable; providing for the termination of the Act under certain circumstances, and declaring an emergency."

S. C. R. No. 12, Relative to the payment of certain warrants.

S. C. R. No. 13, Relative to certain State Departments cooperating with the Rural Electrification Administration.

CONFERENCE COMMITTEE ON SENATE BILL NO. 3

On motion of Mr. Wood of Harrison, the House granted the request of the Senate for a conference committee to adjust the differences between the House and Senate, on Senate Bill No. 3.

In accordance with the above action, the Speaker announced the appointment of the following Conference Committee:

Mr. Wood of Harrison, Mr. Graves, Mr. Harper, Mr. Leath and Mr. Davis.

MESSAGE FROM THE SENATE

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: I am directed by the Senate, to inform the House, the Senate has adopted the following:

H. C. R. No. 25, Granting Charles Berkley Normann permission to place his picture of the original signing of the Declaration of Independence temporarily in the State Capitol, etc.

H. C. R. No. 26, Authorizing the State Highway Department to lend certain equipment to the City of Eastland.

H. C. R. No. 24, Declaring the Legislative intent with reference to House Bill No. 780 of the Regular Session of the 44th Legislature.

(With amendment.)

Passed

H. B. No. 74, A bill to be entitled "An Act declaring open season on wild squirrel in Kinney County, Texas, and making it lawful to kill wild squirrel in Kinney County, Texas, at all times; and repealing all laws in conflict herewith, and declaring an emergency."

H. B. No. 75, A bill to be entitled "An Act declaring a closed season on wild Javelina, Bear, Badger, Raccoon and Rock Squirrel south of the Southern Pacific Railroad in Brewster County, Texas, and providing a penalty for violation of this Act, and declaring an emergency."

H. B. No. 76, A bill to be entitled "An Act to diminish the civil and criminal jurisdiction of the County Court of Red River County, Texas, and conform the jurisdiction of the District Court of such County to such change, and declaring an emergency."

H. B. No. 80, A bill to be entitled "An Act prohibiting the running of deer with dogs in the counties of Jackson and Wharton, making same a misdemeanor and providing a penalty for the violation of said Act, and declaring an emergency."

H. B. No. 81, A bill to be entitled "An Act providing a sixty-day open season for the taking of wild coon, o'possum, and mink in Shelby County, and declaring an emergency."

H. B. No. 82, A bill to be entitled "An Act to amend Article 1813 of the Revised Civil Statutes of 1925 so as to provide for the appointment of a Special Commissioner to serve in the place of any member of a Court of Civil Appeals, who shall be disabled by illness, or otherwise, and whose disability shall be certified to the Governor by the Chief Justice, or any two members, of a Court of Civil Appeals; providing for the compensation of such Commissioner; and providing for an emergency."

H. B. No. 83, A bill to be entitled "An Act to amend Section 1, Chapter 12, Senate Bill No. 39, Forty-first Legislature, First Called Session; providing for the exception of the Clear Fork of the Brazos River from the Act, describing the size of the

mesh of seines and the length of fish that can be taken; providing for a penalty, and declaring an emergency."

H. B. No. 68, A bill to be entitled "An Act making it unlawful for any person or persons to fish for, take, catch or attempt to catch any fish in the fresh waters of Dallas County by any net, seine, snag line, trap or any device other than ordinary pole and line, rod and reel, set line, throw line or trot line; and declaring an emergency."

I am directed by the Senate, to inform the House, that the Senate has passed the following:

S. C. R. No. 19, Sine die resolution.

Respectfully,

BOB BARKER,
Secretary of the Senate.

HOUSE BILL ON FIRST READING

The following House bill, introduced today, (by unanimous consent) was laid before the House, read first time, and referred to the appropriate committee, as follows:

By Mr. Keefe:

H. B. No. 88, A bill to be entitled "An Act to prohibit the use of a steel trap for taking fur-bearing animals or the setting of any steel trap in Anderson County, with certain exceptions; providing a penalty; repealing all laws in conflict therewith, and declaring an emergency."

Referred to the Committee on Game and Fisheries.

RECESS

Mr. Thornton moved that the House recess to 9:00 o'clock a. m., tomorrow.

Mr. Quinn moved that the House recess to 8:00 o'clock p. m., today.

Question first recurring on the motion by Mr. Quinn, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—79

Adamson	Butler of Brazos
Aikin	Butler of Karnes
Alsup	Cagle
Atchison	Canon
Bergman	Colquitt
Bradbury	Daniel
Bradford	Davis
Bridgers	Davison of Fisher
Burton	Dunlap of Hays

Dwyer	Moffett
England	Morris
Fain	Morrison
Fox	Morse
Fuchs	Newton
Glass	Nicholson
Good	Padgett
Graves	Palmer
Gray	Patterson
Greathouse	Payne
Hardin	Quinn
Harper	Reed of Dallas
Harris of Archer	Roach of Hunt
Herzik	Roark
Hofheinz	Rogers
Huddleston	Rutta
Hunter	Sessions
Jones of Shelby	Settle
Jones of Wise	Smith
Keefe	Spears
Knetsch	Stovall
Lanning	Tennyson
Leath	Venable
Leonard	Walker
Lindsey	Westfall
Lotief	Wood of Harrison
Luker	Wood of Montague
Mauritz	Worley
McCalla	Young
McConnell	Youngblood
McKee	

Nays—53

Adkins	Hoskins
Alexander	Howard
Ash	Jackson
Broadfoot	James
Caldwell	Jones of Falls
Calvert	King
Collins	Lange
Colson	Latham
Cooper	Lemens
Cowley	Lucas
Craddock	McKinney
Crossley	Moore
Davisson	Olsen
of Eastland	Petsch
Dickison	Pope
Duvall	Reader
Farmer	Reed of Bowie
Fisher	Riddle
Ford	Roach of Angelina
Gibson	Roberts
Hankamer	Russell
Hanna	Steward
Harris of Dallas	Stinson
Hartzog	Thornton
Hill	Tillery
Hodges	Waggoner
Holland	Wells

Absent

Celaya	Dunlap of Kleberg
Dunagan	Frazer

Head McFarland
Hunt Scarborough
Jefferson Stanfield
Jones of Atascosa Tarwater

Absent—Excused

Bourne Roane
Broyles Shofner
Hyder

The House, accordingly, at 6:10 o'clock p. m., took recess to 8:00 o'clock p. m., today.

NIGHT SESSION

The House met at 8:00 o'clock p. m., and was called to order by the Speaker.

**CONCERNING INSTRUCTIONS TO
CONFEREES ON HOUSE BILL
NO. 8**

The House resumed consideration of pending business, same being motion by Mr. Roark to instruct the Conference Committee on House Bill No. 8.

Mr. Aikin submitted the following substitute for the motion by Mr. Roark:

I move that the Conference Committee on House Bill No. 8 be instructed not to incorporate into said bill any form of additional Sales Tax or Gross Proceeds Tax.

AIKIN.

Mr. Hofheinz raised a point of order, on further consideration of motions to instruct the Conference Committee on House Bill No. 8, on the ground that the motions are out of order at this time, as the House has not taken any definite action on the Senate amendments.

The Speaker overruled the point of order.

Mr. Hanna moved that Section 7 of Rule XIII of the House Rules, be suspended, at this time, for the purpose of making a motion to reconsider the vote by which the House on this afternoon adopted the motion by Mr. Bradbury, which motion related to instructing conferees on House Bill No. 8.

Question recurring on the motion by Mr. Hanna, yeas and nays were demanded.

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—72

Adamson	Latham
Aikin	Leath
Alexander	Leonard
Atchison	Lindsey
Bergman	Luker
Bridgers	Mauritz
Burton	McCalla
Butler of Brazos	McKee
Celaya	McKinney
Collins	Moffett
Cooper	Moore
Cowley	Morrison
Crossley	Morse
Daniel	Nicholson
Davison of Fisher	Patterson
Dunlap of Kleberg	Petsch
Duvall	Quinn
Dwyer	Reed of Dallas
Fisher	Roach of Angelina
Gibson	Roark
Good	Roberts
Graves	Russell
Gray	Sessions
Greathouse	Settle
Hankamer	Spears
Hanna	Steward
Harris of Dallas	Stinson
Hartzog	Tennyson
Hill	Thornton
Hofheinz	Waggoner
Holland	Walker
Howard	Wells
Hunt	Wood of Harrison
Jackson	Wood of Montague
Jones of Falls	Worley
King	Young

Nays—62

Adkins	Fuchs
Alsup	Glass
Bradbury	Hardin
Bradford	Harris of Archer
Broadfoot	Head
Butler of Karnes	Herzik
Cagle	Hodges
Caldwell	Hoskins
Calvert	Huddleston
Canon	Hunter
Colquitt	James
Colson	Jones of Shelby
Craddock	Jones of Wise
Davis	Keefe
Davisson	Knetsch
of Eastland	Lanning
Dickison	Lemens
Dunlap of Hays	Lotief
England	Lucas
Fain	McConnell
Farmer	Morris
Fox	Newton
Frazer	Olsen

Padgett	Smith
Palmer	Stanfield
Pope	Stovall
Reader	Tarwater
Reed of Bowie	Tillery
Riddle	Venable
Roach of Hunt	Westfall
Rogers	Youngblood
Rutta	

Absent

Ash	Jones of Atascosa
Dunagan	Lange
Ford	McFarland
Harper	Payne
Jefferson	Scarborough

Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

(Mr. Duvall in the Chair.)

Mr. Cooper moved that the House recess to 9:00 o'clock a. m., tomorrow.

The motion was lost.

(Speaker in the Chair.)

Mr. Hanna again moved that Section 7 of Rule XIII of the House Rules, be suspended at this time, for the purpose of making a motion to reconsider the vote by which the House on this afternoon adopted the motion by Mr. Bradbury.

Question recurring on the motion by Mr. Hanna, yeas and nays were demanded.

The motion was lost by the following vote:

Yeas—61

Adamson	Greathouse
Aikin	Hanna
Alexander	Hartzog
Atchison	Head
Bergman	Hofheinz
Bridgers	Holland
Burton	Hunt
Butler of Brazos	Jackson
Collins	Jones of Falls
Colquitt	King
Cooper	Latham
Cowley	Leath
Crossley	Leonard
Daniel	Luker
Duvall	Mauritz
Dwyer	McCalla
Fisher	McKinney
Gibson	Morrison
Good	Morse
Graves	Nicholson
Gray	Patterson

Petsch	Stinson
Quinn	Tennyson
Reed of Dallas	Waggoner
Roach of Angelina	Walker
Roberts	Wells
Russell	Wood of Harrison
Sessions	Wood of Montague
Settle	Worley
Stanfield	Young
Steward	

Nays—70

Adkins	Hunter
Alsup	James
Bradbury	Jones of Shelby
Bradford	Jones of Wise
Broadfoot	Keefe
Butler of Karnes	Knetsch
Cagle	Lanning
Caldwell	Lemens
Calvert	Lotief
Canon	Lucas
Celaya	McConnell
Colson	McKee
Craddock	Moffett
Davis	Moore
Davison of Fisher	Morris
Davisson	Newton
of Eastland	Olsen
Dickison	Padgett
Dunlap of Hays	Palmer
England	Reader
Fain	Reed of Bowie
Farmer	Riddle
Fox	Roach of Hunt
Frazer	Roark
Fuchs	Rogers
Glass	Rutta
Hardin	Scarborough
Harper	Smith
Harris of Archer	Spears
Harris of Dallas	Stovall
Herzik	Tarwater
Hill	Thornton
Hodges	Tillery
Hoskins	Venable
Howard	Westfall
Huddleston	

Absent

Ash	Lange
Dunagan	Lindsey
Dunlap of Kleberg	McFarland
Ford	Payne
Hankamer	Pope
Jefferson	Youngblood
Jones of Atascosa	

Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

Question recurring on the substitute motion by Mr. Aikin, yeas and nays were demanded.

The substitute motion was adopted by the following vote:

Yeas—100

Adamson	James
Adkins	Jones of Falls
Aikin	Jones of Shelby
Alexander	Jones of Wise
Alsup	Keefe
Ash	King
Atchison	Lanning
Bradbury	Latham
Bradford	Leath
Bridgers	Lemens
Burton	Lotief
Cagle	Lucas
Calvert	Mauritz
Canon	McConnell
Colquitt	McKee
Colson	McKinney
Cooper	Moffett
Cowley	Morris
Craddock	Morrison
Crossley	Morse
Davison of Fisher	Newton
Davisson	Nicholson
of Eastland	Olsen
Dickison	Palmer
Dunlap of Hays	Patterson
England	Quinn
Fain	Reader
Farmer	Reed of Bowie
Fisher	Reed of Dallas
Fox	Roach of Angelina
Frazer	Russell
Fuchs	Rutta
Gibson	Settle
Glass	Smith
Graves	Spears
Gray	Stanfield
Greathouse	Steward
Hanna	Stinson
Harper	Stovall
Harris of Dallas	Tarwater
Hartzog	Tennyson
Head	Thornton
Herzik	Venable
Hodges	Waggoner
Hofheinz	Walker
Holland	Wells
Hoskins	Wood of Harrison
Huddleston	Wood of Montague
Hunt	Worley
Hunter	Young
Jackson	

Nays—33

Bergman	Caldwell
Butler of Brazos	Celaya
Butler of Karnes	Collins

Daniel	Moore
Davis	Padgett
Duvall	Petsch
Dwyer	Pope
Good	Riddle
Hankamer	Roach of Hunt
Hardin	Roark
Harris of Archer	Roberts
Hill	Rogers
Howard	Scarborough
Knetsch	Sessions
Lindsey	Tillery
Luker	Westfall
McCalla	

Absent

Broadfoot	Lange
Dunagan	Leonard
Dunlap of Kleberg	McFarland
Ford	Payne
Jefferson	Youngblood
Jones of Atascosa	

Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

Mr. Spears moved a call of the House for the purpose of maintaining a quorum until 12:00 o'clock midnight, and the call was duly ordered.

On motion of Mr. Fain, the Sergeant-at-Arms was instructed to bring in all absent members within the city who are not ill.

Mr. Pope offered the following amendment to the motion by Mr. Aikin:

I move that the Conference Committee include in House Bill No. 8, the following:

"Occupation tax on each pool and billiard table \$25.00 per year, and each pool selling or book making on horse races \$2,000.00 per shop, and \$0.20 per barrel on crude oil, crude oil products and petroleum residuum in existence on October 1, 1936, in the State of Texas, and not produced under the prorating laws of Texas."

POPE.

The amendment was lost.

Question recurring on the motion by Mr. Roark, as substituted by motion by Mr. Aikin, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—105

Adamson	Aikin
Adkins	Alsup

Atchison	Jones of Wise
Bradbury	Keefe
Bradford	King
Bridgers	Knetsch
Burton	Lanning
Calvert	Latham
Canon	Leath
Celaya	Lemens
Collins	Lindsey
Colquitt	Lotief
Colson	Lucas
Cooper	McCalla
Cowley	McConnell
Craddock	McKee
Crossley	McKinney
Daniel	Moffett
Davis	Moore
Davison of Fisher	Morris
Davisson	Morrison
of Eastland	Newton
Dickison	Nicholson
Dunlap of Hays	Olsen
Duvall	Palmer
England	Patterson
Fain	Petsch
Farmer	Quinn
Fisher	Reader
Fox	Reed of Bowie
Frazer	Reed of Dallas
Fuchs	Riddle
Gibson	Roark
Glass	Rogers
Graves	Russell
Gray	Rutta
Greathouse	Settle
Hanna	Smith
Hardin	Spears
Harper	Stanfield
Harris of Dallas	Stinson
Head	Stovall
Herzik	Tarwater
Hodges	Tennyson
Hofheinz	Thornton
Hoskins	Venable
Howard	Waggoner
Huddleston	Walker
Hunter	Wells
Jackson	Wood of Harrison
James	Wood of Montague
Jones of Falls	Worley
Jones of Shelby	Young

Nays—14

Bergman	Luker
Butler of Karnes	Roach of Hunt
Dwyer	Roberts
Good	Sessions
Harris of Archer	Steward
Hartzog	Tillery
Hill	Westfall

Absent

Alexander	Broadfoot
Ash	Butler of Brazos

Cagle	Leonard
Caldwell	Mauritz
Dunagan	McFarland
Dunlap of Kleberg	Morse
Ford	Padgett
Hankamer	Payne
Holland	Pope
Hunt	Roach of Angelina
Jefferson	Scarborough
Jones of Atascosa	Youngblood
Lange	

Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

Mr. Aikin moved to reconsider the vote by which the above motion was adopted and to table the motion to reconsider.

The motion to table prevailed.

Mr. Quinn submitted the following motion:

Whereas, Due to the fact that the Woodmen of the World, The Woodmen Circle, the Praetorians, the Macabees, the Knights of Pythias, the Fraternal Order of Eagles, and other fraternal organizations are operating for the benefit of their members and without a profit to their organizations; and

Whereas, A tax on fraternal organizations will materially hamper the humanitarian work being done by such organizations in Texas;

Therefore, We request the Free Conference Committee on House Bill No. 8 not to include a tax on any fraternal organization in House Bill No. 8.

QUINN,
NEWTON,
BRADBURY,
LINDSEY,
SMITH,
READER,
LOTIEF,
JAMES,
YOUNG,
SPEARS,
BROADFOOT.

Question recurring on the motion by Mr. Quinn, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—103

Adamson	Alsup
Adkins	Bradbury
Aikin	Bradford

Bridgers	Knetsch
Broadfoot	Lanning
Burton	Latham
Butler of Karnes	Leath
Cagle	Lindsey
Caldwell	Lotief
Calvert	Lucas
Canon	Luker
Celaya	Mauritz
Collins	McCalla
Cooper	McConnell
Cowley	McKee
Craddock	Moffett
Crossley	Moore
Daniel	Morrison
Davis	Morse
Davison of Fisher	Newton
Dickison	Nicholson
Dunlap of Kleberg	Olsen
Dwyer	Palmer
England	Patterson
Fain	Petsch
Farmer	Pope
Fisher	Quinn
Frazer	Reader
Fuchs	Reed of Bowie
Glass	Reed of Dallas
Graves	Riddle
Gray	Roach of Angelina
Greathouse	Roark
Hanna	Rogers
Hardin	Rutta
Harper	Settle
Harris of Archer	Smith
Harris of Dallas	Spears
Hartzog	Stanfield
Herzik	Stinson
Hill	Tarwater
Hodges	Tennyson
Hofheinz	Thornton
Hoskins	Tillery
Huddleston	Waggoner
Hunter	Walker
Jackson	Wells
James	Wood of Harrison
Jones of Falls	Wood of Montague
Jones of Shelby	Worley
Jones of Wise	Young
King	

Nays—14

Bergman	Morris
Colquitt	Roach of Hunt
Colson	Russell
Dunlap of Hays	Sessions
Gibson	Steward
Good	Venable
Head	Westfall

Absent

Alexander	Davisson
Ash	of Eastland
Atchison	Dunagan
Butler of Brazos	Duvall

Ford	Lemens
Fox	Leonard
Hankamer	McFarland
Holland	McKinney
Howard	Padgett
Hunt	Payne
Jefferson	Roberts
Jones of Atascosa	Scarborough
Keefe	Stovall
Lange	Youngblood

Absent—Excused

Bourne	Roane
Broyles	Shofner
Hyder	

Mr. Rogers submitted the following motion:

I move that the Conference Committee on House Bill No. 8, be not further instructed.

ROGERS,
READER.

Mr. Caldwell submitted the following substitute for the motion by Mr. Rogers:

I move that the Conference Committee on House Bill No. 8, be instructed to include in their report the utility tax as incorporated in the committee amendment to House Bill No. 9.

Mr. Jones of Wise raised a point of order, on further consideration of the substitute motion by Mr. Caldwell, on the ground that the motion seeks to instruct the conferees on a matter that is not in disagreement between the two Houses.

The Speaker sustained the point of order.

Question recurring on the motion by Mr. Rogers, it prevailed.

Mr. Spears moved to reconsider the vote by which the motion by Mr. Rogers was adopted, and to table the motion to reconsider.

The motion to table prevailed.

RECESS

Mr. Celaya moved that the House recess to 9:00 o'clock a. m., tomorrow.

Mr. Davison of Fisher moved that the House recess to 10:00 o'clock a. m., tomorrow.

Question first recurring on the motion by Mr. Celaya, it was lost.

Question next recurring on the motion by Mr. Davison of Fisher, it

prevailed and the House, accordingly, at 11:45 o'clock p. m., took recess to 10:00 o'clock a. m., tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

The following committees have filed favorable reports on bills as follows:

Appropriations: House Bill No. 84.

Education: Senate Bill No. 27.

Public Lands and Buildings: Senate Bills Nos. 31, 32 and 33.

State Affairs: Senate Concurrent Resolution No. 10.

The Committee on Eleemosynary and Reformatory Institutions filed a favorable report on House Bill No. 63, on last Wednesday, October 21.

REPORTS OF THE COMMITTEE ON ENROLLED BILLS

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 41, "An Act fixing the compensation of County Commissioners in every county having a population of not less than Twelve Thousand, Seven Hundred and Fifty-seven (12,757) nor more than Twelve Thousand, Eight Hundred (12,800) inhabitants according to the last preceding United States Census where the taxable values in said counties are not less than Seven Million Dollars (\$7,000,000) nor more than Seven Million, Two Hundred and Twenty-five Thousand Dollars (\$7,225,000); prescribing how the same shall be paid; making the provisions of this Act cumulative of all existing laws and in no respect repealing other laws affecting any other county or counties, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 51, "An Act providing for the assumption of bonded indebted-

ness by districts whose boundaries have been extended or enlarged; prescribing the method of holding elections on the question of the assumption of such indebtedness and the levying and collecting of a tax to pay the principal and interest thereof; imposing the duty on the governing board of any such district to levy and collect such taxes; validating assumption elections heretofore held in instances wherein said elections were carried by a majority vote; declaring such indebtedness to be the indebtedness of such district as enlarged or extended; imposing the duty on the governing board of any such district to levy and collect taxes to pay the principal and interest thereof; making applicable to such indebtedness the law authorizing school districts to issue refunding bonds; validating refunding procedure heretofore attempted by such districts; providing the provisions of this Act shall not apply in instances wherein the validity of such election or the validity of such action by such governing board is in litigation at the time this Act becomes effective; providing that a successor district shall be liable for the indebtedness of its predecessor district in instances wherein the boundaries of said districts are coterminous without the necessity of an election of any character; imposing the duty on the governing board of such district to levy and collect taxes to pay the principal and interest of such indebtedness; validating the attempted issuance of refunding bonds heretofore authorized by such districts, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 68, "An Act making it unlawful for any person or persons to fish for, take, catch or attempt to catch any fish in the fresh waters of Dallas County by any net, seine, snag line, trap or any device other than ordinary pole and line, rod and reel, set line, throw line or trot line; providing that on any set line, throw line

or trot line hooks shall not be less than three (3) feet apart; making it prima facie evidence of violation of this Act for any person to have in his possession any tackle not authorized herein within two hundred (200) yards of any stream, lake or other fresh waters in said County; providing that it shall be lawful to fish with artificial bait equipped with more than two (2) hooks with pole and line or rod and reel; providing that it shall be lawful to use a minnow seine not more than twenty (20) feet in length for the purpose of taking minnows for bait; prohibiting the taking of any fish other than minnows for bait by use of minnow seines, and providing for the return of all fish so taken immediately to the water; providing size limits and bag limits for fish taken in said County; providing for the immediate return to the waters of all fish not within the limits prescribed herein; providing a penalty for violation of this Act; repealing all laws or parts of laws in conflict herewith, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 75, "An Act declaring a closed season on wild Javelina, Bear, Badger, Raccoon and Rock Squirrel south of the Southern Pacific Railroad in Brewster County, Texas; providing a penalty for violation of this Act, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 74, "An Act declaring open season on wild squirrel in Kinney County, Texas, and making it lawful to kill wild squirrel in Kinney County, Texas, at all times; repealing

all laws in conflict herewith, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 80, "An Act prohibiting the running of deer with dogs in the counties of Jackson and Wharton; making same a misdemeanor and providing a penalty for the violation of said Act, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 81, "An Act providing a sixty (60) day open season for the taking of wild coon, squirrels, opossum, and mink in Shelby County, Texas, which period shall be from December first of each year to February first of the following year; and providing open season during the month of December of each year for the taking of wild quail in Shelby County, Texas; providing that it shall be unlawful to use a trap, snare or deadfall for the taking or attempting to take such animals; providing a penalty; repealing all laws in conflict herewith, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 82, "An Act to amend Article 1813 of the Revised Civil Statutes of 1925 so as to provide for the appointment of a Special Com-

missioner to serve in the place of any member of a Court of Civil Appeals, who shall be disabled by illness, or otherwise, and whose disability shall be certified to the Governor by the Chief Justice, or any two members, of a Court of Civil Appeals; providing for the compensation of such Commissioner, and providing for an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. B. No. 83, "An Act to amend Section I, Chapter 12, Senate Bill No. 29, Forty-first Legislature, First Called Session; providing for the exception of the Clear Fork of the Brazos River from the Act, describing the size of the mesh of seines and the length of fish that can be taken; providing for a penalty, and declaring an emergency."

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 25, Granting Charles Berkley Normann permission to place his picture of the original signing of the Declaration of Independence temporarily in the State Capitol.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

Committee Room,

Austin, Texas, October 26, 1936.

Hon. Coke Stevenson, Speaker of the House of Representatives.

Sir: Your Committee on Enrolled Bills, to whom was referred

H. C. R. No. 26, Authorizing the State Highway Department to lend certain equipment to the City of Eastland.

Has carefully compared same and finds it correctly enrolled.

ATCHISON, Chairman.

In Memory of **Walter Cuthbert Porter**

Mr. Morrison offered the following resolution:

Whereas, On the 20th day of October, 1936, the Great Master of the Universe called from the walks of life Walter Cuthbert Porter, of Terrell, Kaufman County, Texas; and

Whereas, Mr. Porter was a distinguished citizen of Terrell and Kaufman County, in civic and business affairs and was of great service to his community and the State; and

Whereas, In 1903 in collaboration with Dr. S. A. Knapp, then connected with the United States Department of Agriculture, at Washington, was established The Porter Demonstration Farm, the first in the United States; and

Whereas, Walter Cuthbert Porter was the owner of such farm which first demonstrated the advantages of the diversified and scientific farming in Texas; and

Whereas, Mr. Porter has, since the establishment of said farm in 1903, been actively engaged in promoting better farming methods in Texas; and

Whereas, His splendid work has spread over the State of Texas and even the United States; and

Whereas, The varied talents of Mr. Porter carried him into various other enterprises and business promotions which were of great benefit to the citizens of his community and his State; and

Whereas, Mr. Porter was considered one of the most valued sympathetic and charitable men in Kaufman County; now, therefore, be it

Resolved, That the Members of the Forty-fourth Legislature express their regrets at the passing of this splendid citizen; and, be it further

Resolved, That a copy of this resolution be spread on the Journal of the House of Representatives, this day in memory of deceased; and be it further

Resolved, That the Chief Clerk of the House of Representatives be instructed to send his wife, Mrs. Walter Cuthbert Porter, of Terrell, Texas, and children of the deceased, each a copy of this resolution under the seal of the Chief Clerk of the House of Representatives.

MORRISON

The resolution was read second time.

Signed—Stevenson, Speaker; Adamson, Adkins, Aikin, Alexander, Alsup, Ash, Atchison, Bergman, Bourne, Bradbury, Bradford, Bridgers, Broadfoot, Broyles, Burton, Butler of Brazos, Butler of Karnes, Cagle, Caldwell, Calvert, Canon, Celaya, Collins, Colquitt, Colson, Cooper, Cowley, Craddock, Crossley, Daniel, Davis, Davison of Fisher, Davisson of Eastland, Dickison, Dunagan, Dunlap of Kleberg, Dunlap of Hays, Duvall, Dwyer, England, Fain, Farmer, Fisher, Ford, Fox, Frazer, Fuchs, Gibson, Glass, Good, Graves, Gray, Greathouse, Hankamer, Hanna, Hardin, Harper, Harris of Archer, Harris of Dallas, Hartzog, Head, Herzik, Hill, Hodges, Hofheinz, Holland, Hoskins, Howard, Huddleston, Hunt, Hunter, Hyder, Jackson, James, Jefferson, Jones of Wise, Jones of Shelby, Jones of Falls, Jones of Atascosa, Keefe, King, Knetsch, Lange, Lanning, Latham, Leath, Lemens, Leonard, Lindsey, Lotief, Lucas, Luker, Mauritz, McCalla, McConnell, McFarland, McKee, McKinney, Moffett, Moore, Morris, Morse, Newton, Nicholson, Olsen, Padgett, Palmer, Patterson, Payne, Petsch, Pope, Quinn, Reader, Reed of Bowie, Reed of Dallas, Riddle, Roach of Hunt, Roach of Angelina, Roane, Roark, Roberts, Rogers, Russell, Rutta, Scarborough, Sessions, Settle, Shofner, Smith, Spears, Stanfield, Steward, Stinson, Stovall, Tarwater, Tennyson, Thornton, Tillery, Venable, Waggoner, Walker, Wells, Westfall, Wood of Montague, Wood of Harrison, Worley, Young, Youngblood.

On motion of Mr. Venable, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.

In Memory of **William H. Fearis**

Mr. Stovall offered the following resolution:

On March 3, 1936 we were again forcibly reminded of the certainty with which the grim reaper performs his fateful act, in the death of Hon. William H. Fearis of Ellis County.

Hon. William H. Fearis was a native of the State of Georgia, born on a southern plantation March 16, 1854 and received his education at the hands of a private tutor in Atlanta, Georgia. He came to Texas in 1871. His life was a varied one in his younger days, having spent several years in the vast west and having had experiences with the Indian tribes of Nevada, Oregon and California.

He was admitted to the Bar in 1878. He was a profound student of law and one of the most successful prosecutors of crime that the State has ever had, having drawn an indictment upon that perplexing question of what constitutes swindling. It was upheld and has from time to time been cited with approval by the Higher Courts of the State.

He served as County Attorney of his adopted county for four years, and was retained as assistant prosecutor for fourteen years by reason of his superior skill and ability in handling criminal prosecutions. He served with distinction in the Twenty-seventh Legislature of the State of Texas.

He was a member of the Methodist Church and was married to Miss Annie Moore in Ennis, Texas, in 1889.

Whereas, He was deeply interested in all public matters and worked constantly for the enforcement of the law and the administration of justice, and

Whereas, His broad experience reached back to the ante-bellum days of the south and stored his mind with deep-seated principles of State's rights; and

Whereas, He was a thorough Democrat and stood at all times for the rights of the masses; therefore, be it

Resolved, That we deplore the passing of the Hon. William H. Fearis and extend our sympathies to his beloved wife and many friends, and a page of the Journal of this House be devoted to his memory, and that when we adjourn today we do so in his honor and that a copy of this resolution be sent to his sorrowing companion.

STOVALL

The resolution was read second time.

Signed—Stevenson, Speaker; Adamson, Adkins, Aikin, Alexander, Alsup, Ash, Atchison, Bergman, Bourne, Bradbury, Bradford, Bridgers, Broadfoot, Broyles, Burton, Butler of Brazos, Butler of Karnes, Cagle, Caldwell, Calvert, Canon, Celaya, Collins, Colquitt, Colson, Cooper, Cowley, Craddock, Crossley, Daniel, Davis, Davison of Fisher, Davisson of Eastland, Dickison, Dunagan, Dunlap of Kleberg, Dunlap of Hays, Duvall, Dwyer, England, Fain, Farmer, Fisher, Ford, Fox, Frazer, Fuchs, Gibson, Glass, Good, Graves, Gray, Greathouse, Hankamer, Hanna, Hardin, Harper, Harris of Archer, Harris of Dallas, Hartzog, Head, Herzik, Hill, Hodges, Hofheinz, Holland, Hoskins, Howard, Huddleston, Hunt, Hunter, Hyder, Jackson, James, Jefferson, Jones of Wise, Jones of Shelby, Jones of Falls, Jones of Atascosa, Keefe, King, Knetsch, Lange, Lanning, Latham, Leath, Lemens, Leonard, Lindsey, Lotief, Lucas, Luker, Mauritz, McCalla, McConnell, McFarland, McKee, McKinney, Moffett, Moore, Morris, Morrison, Morse, Newton, Nicholson, Olsen, Padgett, Palmer Patterson, Payne, Petsch, Pope, Quinn, Reader, Reed of Bowie, Reed of Dallas, Riddle, Roach of Hunt, Roach of Angelina, Roane, Roark, Roberts, Rogers, Russell, Rutta, Scarborough, Sessions, Settle, Shofner, Smith, Spears, Stanfield, Steward, Stinson, Tarwater, Tennyson, Thornton, Tillery, Venable, Waggoner, Walker, Wells, Westfall, Wood of Montague, Wood of Harrison, Worley, Young, Youngblood.

On motion of Mr. McConnell, the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted.